

379.14  
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1927

# LAWS OF MINNESOTA

Relating to the

# Public School System

Including the

State Teachers Colleges

and the

University of Minnesota

---

Prepared Under the Direction of

CLIFFORD L. HILTON

Attorney General

and

JAMES M. McCONNELL

Commissioner of Education

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#### ADDENDA AND CORRECTIONS

1. Note to follow Section 115:

Chapter 173, Laws of 1925, provides that a bank selected as depository of school district funds may, in lieu of furnishing a bond to secure such funds, deposit with the treasurer of the school district such bonds, certificates of indebtedness or warrants, except bonds secured by real estate, as are legally authorized investments for savings banks under the laws of the state. The total amount of such collateral computed at its market value shall be at least ten per cent more than the limit of deposit which would be permitted if a corporate or a personal surety bond was furnished.

2. In Section 122, 2,000,000 should read 200,000.
3. In Section 171 "are guilty" should read "or guilty."
4. Under Section 197 the citation to the 1923 Statutes should be 2872 instead of 2782.





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## FOREWORD

The pioneers of Minnesota, men of rugged, but of high intelligence and moral character, many of whom had been denied the privileges and advantages of education, comparable to those existing today, recognized that the welfare of the new state about to be created depended largely upon the educational opportunities made perpetually available to its future citizens. Hence, we find the Constitution of the state declaring: "The stability of a Republican form of government depending mainly upon the intelligence of the people, it shall be the duty of the legislature to establish a general and uniform system of public schools." Article 8, section 1.

The legislature caught the spirit of the Constitution and established and maintained, through its many agencies, a system of public schools of which the state may be justly proud. Recognizing the high character of its citizenry, it wisely delegated to the local communities the actual management and conduct of its elementary schools. The thousands of young men and women who yearly pass from these schools on into the institutions of higher learning testify to the efficient discharge of the trust. The ever ready response of the tax payers of the state to the calls for moneys necessary to maintain and advance educational opportunities bear evidence that the spirit of the early men and women of Minnesota still lives. Last year, there was expended approximately fifty-seven million dollars for educational work.

Perhaps no public official has a more sacred trust than does the local school officer. To such officers is committed, in a large measure, the education of the boys and girls of their communities, and the responsibility for the future intelligence and moral stability of our people.

While the management and conduct of the elementary schools has been left largely with the local communities, yet the legislature has not been unmindful of its constitutional obligation to maintain a uniform system of schools. Hence, we find the duties, responsibilities and powers of the local electors and school boards fully and definitely defined and fixed by statutes, which must be carefully observed and followed. It is with a view of assisting such electors and officers in the discharge of their duties and responsibilities that the following compilation has been prepared.

CLIFFORD L. HILTON, Attorney General,

and

JAMES M. McCONNELL, Commissioner of Education.

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## EXPLANATORY PREFACE

This compilation contains the general laws of Minnesota of practical use and application relating to the public schools. The General Statutes of 1923 are taken as the basis, and to them have been added all subsequent laws and amendments.

The laws have been arranged by subjects, and the sections numbered consecutively. At the foot of each section is given the number of the section of the General Statutes 1923, or the chapter and year of the subsequent session laws, from which the section is derived.

In a few cases where the section in the 1923 statutes have not been found, reference is made to G. S. 1913 or to the Session Laws.

Following the sections will be found annotations in small type giving the substance of decisions of the supreme court and opinions of the attorney general. The references, such as 43 M. 312, are to the volume and page of the Minnesota Supreme Court Reports, regular edition, and the references, such as (Gil. 352), added, are to the Gilfillan edition of the Supreme Court Reports. References, such as "Young, page 187," or "Hilton, July, 1921," are to the name of the attorney general who gave the opinion, and the page of his report where the opinion may be found, or the date thereof, as the case may be.

The index references are to the sections of this compilation.

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## CHAPTER I.

### SCHOOL DISTRICTS.

1. **School districts**—For school purposes the state is divided into common, special, and independent school districts, each of which shall be a public corporation. Common school districts shall be numbered consecutively in each county, and each shall be known as school district No. .... of. .... county. A district, when situated in two or more counties, shall be known as joint school district No. .... of. .... and .... counties. Independent school districts shall be known by the names or numbers given them at their organization. (2742)

School districts are corporations with limited powers; and the duties of the trustees or board are public and administrative only. They are not liable to individuals for neglect or nonfeasance.—49 M. 106.

When a school district has acted as such, has borrowed money, issued bonds, voted taxes, and been dealt with by the state as a district, both it and the state are estopped to question its legal organization.—85 M. 230.

When a district has exercised the franchises and privileges of a district for one year, there is a conclusive presumption in the nature of a statute of limitation that it is legally organized.—54 M. 203.

The organization of a district, or the validity of the acts of its officers, is not vitiated by neglect of the officers elected to file acceptance of office.—Cole, p. 117.

Special districts should be known and designated by the name of their incorporation and a number is not required by law.—Douglas, July 13, 1901.

On appeal it was held as follows; (119 M. 119);

1. The question of when school districts may be formed, or their boundaries changed, is a legislative one which has been delegated to the county boards.

2. The question of formation or change of boundaries of districts must be determined by the consideration of the best interests, present and future, of the people of the territory, considered as a whole;

3. The "best interests" of the territory affected, as used in section 1285, R. L., means the best interests of the people of the whole territory. The interests of the most populous portion or those of the sparsely settled portion cannot be independently considered: for the interests of the strong can never be the measure of the rights of the weak.

A school district is not responsible in damages on account of accidents to instructors or pupils occurring in the performance of their duties assigned by the board, such as laboratory work and manual training, on the ground that school districts are quasi municipal corporations exercising a government function from which it derives no pecuniary profit.—(Smith, April 14, 1913.)

Teachers, janitors and others employed by a school district are entitled to compensation under the Workmen's Compensation Act if injured in the performance of their duties.—(Smith, August, 1916.)

2. **Formation of districts**—A majority of the freeholders qualified to vote for school officers residing in an incorporated village, wherein there is no school house or upon any territory not less than four sections in extent, and in which reside not less than twelve children of school age, whether or not such territory be in whole or in part included in any existing common, independent, or special school district, may petition the county board of the proper county to make such territory a school district, common or independent. (2743)

A petitioner, after signing a remonstrance, cannot be claimed as a petitioner.—Hahn, May 29, 1886.

The revised statutes provide that a petition for the alteration of a school district, the territory of which lies in two counties, shall be presented to the board of county commissioners of each county, of course, for their concurrent action. It is therefore necessary that the proposed alterations shall be agreed to by each of the boards before it can take effect.—Colville, p. 239.

A married woman is not a freeholder because her husband is such, nor is the husband a freeholder because the wife is such.—Wilson, p. 345.

A resident of a school district becomes a freeholder as soon as he owns real estate therein.—(Smith, September 26, 1916.)

3. **Same; petition for**—The petitions shall contain:

1. A correct description of the territory to be included in such proposed district.

2. The number of persons residing therein.



3. The names and ages of all children of school age residing therein, and the existing district in which each such child lives.

4. The districts in which such territory lies, and the number of such children in each such district.

5. The reasons for the formation of the proposed district.

Such petitions shall be acknowledged by the petitioners and submitted to the county superintendent, and if he shall approve of the same he shall endorse such approval in writing upon said petition, stating his reasons therefor; and if he shall disapprove of same he shall indorse thereon in writing his reasons for such disapproval. (2744)

A person signing a petition for the creation of a school district may withdraw his signature therefrom by the signing of a remonstrance or otherwise.—Childs, July 28, 1893.

The board of county commissioners may permit the amendment of a petition for the formation of a school district when such amendment is assented to in writing by all of the persons signing the same.—Childs, Dec. 21, 1894.

A county superintendent cannot by inaction prevent the county board from acting on a petition of freeholders for the formation of a school district.—(Smith, Dec. 20, 1916.)

Mere irregularities in a petition for the formation of a school district, such as erroneously designating the district, are not fatal in the absence of a showing of prejudice resulting from such irregularities.—(Smith, August 21, 1917.)

When a petition signed by a majority of the resident freeholders is presented to the county board, jurisdiction is not lost by reason of the fact that after the petition was signed the number of resident freeholders increased so that at the date of hearing the signers constituted less than a majority.—89 M. 351.

A petition for the formation of a new school district should be presented to the county superintendent, and it is his duty to either approve or disapprove the same in writing, giving his reasons for his action in either event, before the same is presented to the county commissioners.—Simpson, Jan. 12, 1910.

4. **Same; notice of hearing**—Upon the presentation of such petition, the county board shall appoint a time and place for hearing thereon, and shall cause two weeks' published notice thereof to be given in the county, and ten days' posted notice in each district affected. Such notice shall also be served on the clerk of each district, by mail, at least ten days before the time set for hearing, and the auditor's certificate shall be proof of the mailing. (2745)

5. **Same; proceedings on hearing**—At the hearing the board shall receive any evidence and consider any arguments for and against such proposed organization, and shall make an order either granting or denying the petition; and, if the petition be granted, the order shall particularly describe the district, state its name or number, shall be signed by the chairman, and attested and filed with the auditor, who shall mail to the clerk of each district affected a copy thereof, and shall cause ten days' posted notice to be given of a meeting to organize such district. The board may adjourn the hearing from time to time, and, upon the recommendation or with the written approval of the county superintendent, enlarge or change the boundaries proposed in the petition. (2746)

6. **Same; appeal from order**—Any person aggrieved may appeal from such order to the district court of the county upon the following grounds:

(1) That the county board had no jurisdiction to act.

(2) That it has exceeded its jurisdiction.

(3) That its action is against the best interests of the territory affected.

Such appeal shall be taken by serving upon the county auditor within thirty days from the making of the order a notice of appeal, specifying the grounds thereof. The appellant shall also execute and deliver to the auditor a bond to the county in the sum of one hundred dollars, to be approved by the county auditor, conditioned for the payment of all costs taxed against the appellant on such appeal. Such further proceedings shall

be had upon such appeal as upon other appeals from the county board. (2747)

The county board, as the representatives of the public, to whom is entrusted the matter of forming school districts may appeal from an order of the district court reversing its action.—43 M. 312.

Where the county board has granted a petition for dividing a school district, and an appeal has been taken to the district court, the money in the hands of the district treasurer, which has been apportioned by the county commissioner to the new district, the treasurer, for his own protection, should retain and decline to pay over the same until the legality of the proceedings has been determined by the court.—Simpson, Sept. 17, 1909.

**7. Change of boundaries**—By like proceedings, and upon petition of the majority of the freeholders of each district affected, qualified to vote at school meetings, the boundaries of any existing district may be changed, or two or more districts consolidated, or one or more districts annexed to an existing district. No change in the boundaries of a district by organization of a new district or otherwise shall be made, so as to leave the old district without at least one school house used for school purposes and without at least four sections of land, nor shall any change of districts in any way affect the liabilities of the territory so changed upon any bond or other obligation; but any such real estate shall be taxed for such outstanding liability and interest, as if no change had been made. In case of the consolidation or annexation of districts, whether under the foregoing or any other provisions of the law, action shall be brought by or against the new or remaining district upon any cause existing in favor of or against any discontinued district, but a judgment in such action against such existing district shall be satisfied only from taxes upon the real property included in the discontinued district, when the liability was incurred. (2748)

If a part of a district is separated from it by annexation to another, or by the erection of a new district, the old district still retains all its property and is responsible for all its debts, unless some other provision is made by the act authorizing the separation. (40 M. 13.)

Divisions and awards of moneys, funds, etc., made by the county board, are governed by the rules applicable to other awards. Technical precision is not required, but there must be no uncertainty as to intention. (67 M. 402.)

Upon a division of a district, the county board cannot abrogate nor modify contracts of the old district; but should make an order fixing the liability arising out of such contracts. The old district is liable on contracts entered into prior to division, unless the county board provide otherwise. (Young, p. 201.)

An old district, out of a part of which a new district has been formed, cannot afterwards vote a tax upon the new district to pay bonds issued prior to such division; but in case of failure of the new district to levy its share of the tax, the county auditor under section 787, R. L., may levy its proportionate share and extend it on the tax lists. Such tax should be levied upon both real and personal property. (Young, p. 183.)

A tax levied, but not collected, before the division, is subject to distribution. (Childs, June 29, 1894.)

Upon division of a school district moneys on hand raised for the purpose of building a school house are subject to division. (Childs, Sept. 18, 1893.)

The county board, in proceedings for change of boundaries, cannot include land not referred to in the petition and not represented at the hearing; and if it does, the district court, on appeal, may modify the order so that such land shall be restored to its proper district. (120 M. 443.)

The county board may enlarge a district having wholly within its limits an incorporated village of the character specified by the statute, by including lands wholly within the village but contiguous to the district. (153 N. W. Rep. 253.)

If prior to the issuance of bonds voted by a consolidated district, the county board detaches certain territory from the district in question the territory would be relieved from the bonded indebtedness. (Smith, Sept. 15, 1916.)

**8. Same; cities and villages**—Provided, that when any incorporated borough, village or city of seven thousand or less inhabitants, has within its limits a school district, however organized, or is wholly or partly included within the boundaries of any school district, however organized, or whenever any such school district shall include within its boundaries part or the whole of any incorporated borough, village or city of seven thousand

inhabitants or less, the boundaries of any such district or districts may be enlarged or changed so as to include all lands within the corporate limits of such borough, city or village or so as to include lands within and outside of such incorporated borough, city or village, but contiguous to said district in the following manner, to-wit:

Whenever a majority of the legal voters residing within such school district and a majority of the legal voters residing upon the lands proposed to be attached or annexed to such school districts shall petition the board of county commissioners of the county wherein such district is situated for an enlargement of such district, and shall file a petition with the auditor of said county, it shall be the duty of the board of county commissioners at its next regular meeting, or special meeting, to set a time and place for hearing upon such petition, and it shall cause a copy of the notice of such hearing to be posted in some public place in each district to be affected by such proposed change, and a copy thereof to be served upon the clerk of each of said districts, at least ten (10) days before the time appointed for such hearing. The posting of such copy of notice shall be proven by the affidavit of the person posting the same; said affidavit shall state the time and place of posting and serving of the copy of notice as herein specified, and upon filing proof of the posting and serving of such notice in the office of the county auditor, the board of county commissioners shall at the time and place fixed proceed with the consideration of such matter and shall hear all evidence offered by any person interested, tending to show what territory should be included within such district, and having heard the evidence they shall, if they find it conducive to the good of the inhabitants of the territory affected, proceed to enlarge the said school district as asked for in the petition, and to fix the boundaries thereof and of all the remaining school districts thereby affected, attaching to or detaching, contiguous territory to or from any of such districts, in such manner as in their judgment the best interests of the persons and districts thereby affected may require; provided, that no action or order changing any boundaries of any school district shall be valid unless and until the foregoing requirements as to posting and serving of notices have been observed; and provided further, that whenever the territory affected by any of the foregoing proceedings lies in two or more counties, like proceedings shall be had in each county affected, and no order in such proceedings shall be valid unless concurred in by the county board of all such counties affected. (2748)

Land within the petitioning district is "territory affected" within the meaning of section 2677, G. S. 1913. The interests of the rural school district from which lands are to be detached should not be considered independently from the interests of the urban district to which the lands are to be attached, so that the change should not be made if not conducive to the interests of the inhabitants of either of the districts. (134 M. 82.)

The county board may enlarge a school district having wholly within its limits an incorporated village of the character specified in section 2677, G. S. 1913, by including lands wholly without such village but contiguous thereto. (130 M. 25.)

9. Same; apportionment of funds—At the time of making such division, enlargement or change of boundaries, the county commissioners shall apportion to the district so enlarged that portion of the debts of said other districts as may seem to them right and proper, and said apportionment when so made shall be binding upon all the districts affected, and the county commissioners may also apportion to said districts so enlarged such portion of the property of such other districts as shall seem to them just and proper. Said last mentioned apportionment shall be subject to review by the district court:

10. Same; appeal—And provided further, that any person or officer of any school district aggrieved by any order of the county board made pursuant to the provisions of this section, may appeal to the district court from such order, such appeal to be governed by the provisions of section 1285, Revised Laws 1905. (2748)



11. Same; setting land off to adjoining district—When any freeholder shall present to the board of any county a petition, verified by him, stating that he owns land in such county adjoining any district therein, or separated therefrom by not more than one-quarter section, and that such intervening land is vacant and unoccupied, or that its owner is unknown, and that he desires his said land, together with such intervening land, set off to such adjoining district, and his reasons for asking such change, the board, upon notice and hearing as in other cases, and upon proof of all the allegations of the petition, may make its order granting the same, and like notice of such change shall be given as in other cases;

Provided; that any person or officer of any school district aggrieved by any order of the county board made pursuant to the provisions of this section, or by any order of the county board, made on the rehearing before it of any such petition, may appeal to the district court from such order, such appeal to be governed by the provisions of section 2676, General Statutes, 1913. (2789)

The petition required is not a pleading and need not be drawn with the formality of a pleading. On appeal to the district court the only question is whether the board acted arbitrarily, fraudulently or oppressively without keeping the best interests of the territory in view. (131 M. 79.)

12. Same; division of funds where new school districts are formed—That whenever the boundaries of any school district are changed, or when a school district is formed from territory comprising two or more districts, or when any school district is divided, the county board shall make a division of all moneys, funds and credits belonging to such districts and shall make an award of such moneys, funds and credits to the district or districts affected by such change, and in making such award the commissioners shall take into consideration the indebtedness, if any, of the district so divided, and shall make such division as they deem just and equitable. (2774)

At the time of making the order for the formation of a new district, the county commissioners should arrange for a division of the funds and credits between the school districts affected by such order, upon an equitable basis, but if the division is not made at that time, it can be made at a later meeting of the board although the safer course is as first stated. It is not necessary for the petition for the formation of a new school district to call for a division of the funds; such a division is provided by law. (Simpson, June 24, 1909.)

When the county board has made an order detaching territory from a school district, as provided by Chapter 13, G. L. 1909, and an appeal has been taken from the order of the district court, and the matter is pending there, such appeal suspends the operation of the order, and until it is determined the status of the territory in question remains the same as though no order had been entered, and is taxable in the old district. (Simpson, November 8, 1909.)

Section 2696 applies to all money in the treasury at the time of organization of new district, including funds for the construction of a new schoolhouse in the old district; and, the division of such a fund is not unlawful diversion of funds raised for a specific purpose. (126 M. 209.)

The division of funds under Section 2696 rests in the sound discretion of the board; and the courts will not interfere where it does not appear such exercise of discretion has been arbitrary. (126 M. 209.)

13. Same; duties of county auditor—When a school district has been formed from territory comprising two or more districts, or where a school district has been divided and the county board has, by resolution, made a division of the moneys, funds and credits belonging to such districts, the auditor of the county shall be required to make a division of all the moneys, funds and credits evidenced by the records in his office pursuant to and as required by said resolution. (2775)

14. **Same; districts in two or more counties**—Whenever the territory affected by any of the foregoing proceedings lies in two or more counties, like proceedings shall be had in each county affected, and no order in such proceedings shall be valid unless concurred in by the county boards of all such counties. (2750)

15. **Same; rehearing before county board**—When the boundaries of any district have been changed by order of the county board, if there shall be filed with the auditor a petition to such board for rehearing, signed by not less than five freeholders, legal voters in said district, the auditor shall present the same to the board at its next meeting. The board shall thereupon set a time and place for rehearing, and shall cause notice thereof to be served on the clerks of the districts affected by such change, and posted as in case of the original petition. The hearing may be adjourned from time to time, and the board shall make such order in the premises as it shall deem just. (2788)

16. **Same; districts to be composed of adjoining territory**—All districts shall be composed of adjoining territory, and any part of a district not so situated, and not containing a school house used as such, shall be by the county board, upon notice as in other cases, attached to a proper district. (2790)

17. **Same; plats and description of districts**—The county auditor shall keep in his office books containing a correct plat and description of each district organized, whether wholly or partly in his county. (2791)

18. **Change of common to independent district**—Any common or special district may be changed to an independent district as hereinafter provided. (2783)

A common school district may organize as an independent one at a special meeting; and if the board, prior to organization, has entered into contracts with teachers, such contracts are valid, and the district will be bound to pay such teachers for five months from the date specified in the contracts as the date when the school shall commence. (Young, p. 195.)

19. **Same; notice of meeting**—To effect such change, ten days' posted notice of a meeting shall be given, signed by six or more resident freeholders, stating the object of the meeting, and notifying the voters of said district to assemble upon a specified day, at a place in said district named in said notice, then and there to vote by ballot upon the question of organization as an independent district. (2784)

20. **Same; vote upon change**—At the time and place mentioned in said notice, the electors assembled shall appoint a chairman, assistant chairman and clerk, who shall be the judges of such election. The voting shall be by ballot, and those favoring such change shall write upon their ballots, "Independent district—Yes," and those against, "Independent district—No." (2785)

Women have a right to vote on the question of change from common to independent school districts, and on all questions involving the interests of the district. (Donahower, p. 132.)

21. **Same; meeting to elect officers**—If a majority of votes cast be in favor of the change, the clerk shall forthwith give notice thereof to the county auditor, and, within twenty days thereafter, shall call a meeting to elect officers, upon ten days' posted notice, and the same proceeding shall thereafter be had as in the organization of other independent districts; and the officers of the common or special district shall act as officers of the new district until the qualification of officers and organization of the new board. (2786)

"Clerk" as used in Section 2786, has reference to the person elected clerk as provided by Section 2785. (Hilton, August, 1921.)

**22. Change of independent to common district**—Any independent district may change its organization to that of a common school district by a vote, by ballot of two-thirds of the electors voting upon the question at any annual or special meeting, notice having been given that such question would be submitted at such meeting. In case of such affirmative vote, the meeting shall elect the proper officers in the same manner as in the organization of a common school district, and the chairman, treasurer, and clerk of the independent district shall be the chairman, treasurer, and clerk, respectively and shall constitute the board of the common district until their successors shall qualify, and the common district shall in all things be the successor of the independent district. (2787)

**23. Consolidation of districts**—Two or more school districts of any kind may consolidate either by the formation of a new district or by the annexation of one or more districts or unorganized territory to an existing district in which is maintained a state graded, semi-graded, or high school as hereinafter provided.

A district so formed by consolidation or annexation shall be known as a consolidated school district. Before any steps are taken to organize a consolidated school district, the superintendent of the county in which the major portion of territory is situated, from which it is proposed to form a consolidated school district, shall cause a plat to be made showing the size and boundaries of the new district, the location of school houses in the several districts, the location of other adjoining school districts and of school houses therein, and the assessed valuation of property in the proposed district, together with such information as may be of essential value, and submit the same to the superintendent of education, who shall approve, modify, or reject the plan so proposed, and certify his conclusions to the county superintendent of schools. (2754)

In consolidation proceedings, a plat not in strict conformity with the statute but accepted and approved by the county and state superintendents and made the basis of all subsequent proceedings, is irregular merely but does not affect the jurisdiction of the proceedings. (122 M. 389.)

The petition for an election on the question of consolidation of districts must state the location of the districts by naming the county and state. (153 N. W. Rep. 112.)

Before a county superintendent is authorized to call an election to consolidate school districts the petitions for consolidation must state the locations of the districts naming the county and state wherein they are located. (130 M. 54.)

May two or more school districts, having a combined area of less than twelve sections, consolidate under the provisions of chapter 238, Session Laws of 1915?

Your inquiry is answered in the affirmative. (Smith, 1919.)

**24. Petition for formation—Signatures required**—After approval by the superintendent of education of the plan for the formation of a consolidated school district, and upon presentation to the county superintendent of a petition signed and acknowledged by at least twenty-five (25) per cent of the resident freeholders of each school district or area affected, qualified to vote at school meetings, who have been such freeholders for at least thirty (30) days immediately preceding the signing and acknowledging of the petition, asking for the formation of a consolidated school district in accordance with the plans approved by the superintendent of education, the county superintendent shall, within ten days, cause ten days' posted notice to be given in each district affected, and one week's published notice, if there be a newspaper published in such district, of an election or special meeting to be held within the proposed district, at a time and place specified in such notice, to vote upon the question of consolidation. (2756)

One who holds a land contract for the conveyance of land in consideration of a conveyance agreed to be made by him of other land is a freeholder. (140 M. 479.)

Though upon a vote of a school district the proposition of consolidating with another district was lost the same question can be voted upon again provided the proper preliminaries are carried out. (Smith, May 21, 1915.)



A signer of a petition for the formation of a consolidated school district may withdraw his name from such petition and such withdrawal if made prior to the time action is taken thereon operates to take his name from the petition. If made after action is taken as for instance by publishing or posting a notice, such withdrawal is ineffective. (Smith, April 20, 1915.)

You state that a question has arisen in a proceeding of that kind in your county as to what is meant by a "resident freeholder." A petition for the formation of a consolidated school district contains names of persons who are not owners of land situated within the school district, but who hold contracts for deed of certain tracts therein. Such persons, for the reason that the contracts have not matured, are not entitled as yet to a deed. You ask whether these parties who hold such contracts for deed are to be considered as freeholders in the meaning of the law above referred to.

In my opinion, your inquiry should be answered in the affirmative, provided the persons in question are, under the terms of the contract, entitled to and are in actual possession of the land in question. (Smith, April 3, 1915.)

On the question of consolidation, the petition for an election is jurisdictional, and it must be signed by the number of legal voters of each district required by the statute, namely 25 per cent; and a petition signed by less is wholly ineffectual. (122 M. 390.)

Two or more petitions may be circulated, one in each district, instead of one specified by the statute, in proceedings for consolidation of districts. (122 M. 389.)

Election notices posted on Sunday where they remain on the following Monday, which was the last day for posting, are valid; and when so posted on Sunday it is to be presumed they remained posted on the following Monday. (127 M. 84.)

The posting of a notice of meeting for voting on consolidation in one place, instead of three places, is not sufficient. (Smith, May 4, 1915.)

A special school meeting, called for the purpose of voting on the question of consolidation, may be held at the same time the annual meeting is held. Separate ballots and separate ballot box should be used. (Hilton, July, 1919.)

**25. Same; election; liability of consolidated district**—At such meeting the electors shall elect from their number a chairman and clerk who shall be the officers of the meeting. The chairman shall appoint two tellers, and the meeting and election shall be conducted as are annual meetings in common and independent districts. The vote at such election or meeting shall be by ballot, which shall read "For Consolidation," or "Against Consolidation." The officers at such meeting or election shall, within ten days thereafter, certify the result of the vote to the superintendent of the county in which such district mainly lies. If a majority of the votes cast be for consolidation, the county superintendent within ten days thereafter shall make proper orders to give effect to such vote, and shall thereafter transmit a copy thereof to the auditor of each county in which any part of any district affected lies, and to the clerk of each district affected, and also to the superintendent of education. If the order be for the formation of a new district, it shall specify the number of such district. The county superintendent shall also cause ten days' posted notice, and one week's published notice, if there be a newspaper published in such district, to be given of a meeting to elect officers of the newly formed consolidated school district; provided, that the board of a consolidated district shall from and after the formation of the consolidated district have all the powers, privileges and duties, now conferred by law upon boards of independent districts.

After the formation of any consolidated school district, appeal may be taken as now provided by law in connection with the formation of other school districts. Nothing in this act shall be construed to transfer the liability of existing bonded indebtedness from the district or territory against which it was originally incurred. Provided that when territory of an adjoining district is attached to the consolidated district subsequent to consolidation proceedings, such new territory so subsequently attached shall be liable for its proportionate share of any bond, or other then outstanding indebtedness, incurred by the consolidated district for the construction of school buildings or the purchase of school equipment, but shall not be liable for any portion of any indebtedness incurred by any constituent territory from which said consolidated district was formed, which indebtedness was so incurred prior to the consolidation. (2757)

Participation in the election on the question of consolidation does not estop those who oppose consolidation from questioning the validity of the election. (122 M. 384.)

After the order for consolidation, official acts of officers of a de facto school district are valid, even though the proceedings are defective under the statute. (122 M. 391.)

On appeal in consolidation proceedings, the county superintendent is not a necessary party. (122 M. 392.)

On appeal, information and consolidation proceedings, the district court has power to pass upon the questions of jurisdiction of officers, and whether or not the consolidation is arbitrary and unreasonably injurious to the rights of those affected. (122 M. 384.)

**26. Same; of district with another having high, graded or semi-graded school**—In like manner, one or more school districts may be consolidated with an existing district in which is maintained a state high or graded, or semi-graded school in a district containing an incorporated village, in which case the school board of the district maintaining a state high or graded or semi-graded school in a district containing an incorporated village, shall continue to be the board governing the consolidated school district, until the next annual school election, when successors to the members whose terms then expire shall be elected by the legally qualified voters of the consolidated school district; provided, however, that in the case of consolidation with a school district in which there is maintained a state high or graded, or semi-graded school in a district containing an incorporated village consolidation shall be effected by a vote of the rural school districts only, in the manner provided under this act, and by the approval of such consolidation of the rural school district or districts with the one in which there is maintained a state high or graded, or semi-graded school in a district containing an incorporated village, by the school board thereof. Provided, that the provisions in this section shall be applicable to a district that has an area not exceeding one (1) mile square in which there is contained a voting school population of one hundred (100) voters or more. (2758)

**27. Same; of unorganized with existing district**—In like manner any portion of an unorganized school district or district governed by a county board of education may be consolidated with an existing district in which is maintained a state high, graded or semi-graded school, by a vote of the county board of education in the county in which is located such unorganized territory and by the approval of such consolidation of the unorganized territory by the school board of the district in which is maintained a state graded, semi-graded or high school. (2759)

**28. Same; certificate of; transfer of records and property**—The officers of the several districts forming a consolidated school district shall within ten days from receipt of copy of the order of the county superintendent certifying the formation of the new district, or immediately after election and qualification of members of the school board in the consolidated school district, turn over to the proper officers of the newly elected school board, or to the proper officers of the school board in the district maintaining the state high or graded, or semi-graded school, all records, funds, credits, buildings, property and other effects of their several districts. (2760)

Before consolidation it is competent for a school board if authorized at a properly called school meeting, to sell its schoolhouse, such sale to be conditioned on the consolidations becoming effective. (Smith, Feb. 8, 1915.)

**29. Same; power to provide schools, sites, transportation facilities**—For the purpose of promoting a better condition in rural schools, and to encourage industrial training, including the elements of agriculture, manual training and home economics, the board in a consolidated school district is authorized to establish schools of two or more departments, provide for

the transportation of pupils, or expend a reasonable amount for room and board of pupils whose attendance at school can more economically and conveniently be provided for by such means; locate and acquire sites of not less than two acres, and erect necessary and suitable buildings thereon, including a suitable dwelling for teachers, when money therefor has been voted by the district. They shall submit to the superintendent of education a plat of the school grounds, indicating the site of the proposed buildings, plans and specifications for the school building and its equipment, and the equipment of the premises. (2761)

The school board and not the district determines the amount, within funds available, which shall be paid a bus driver. (Smith, August 10, 1917.)

Drivers of motor-driven transportation busses are chauffeurs, and as such should have chauffeurs' licenses. (Hilton, December, 1921.)

30. Same; classification of, for state aid—(1) For receiving state aid for transportation, schools in consolidated districts shall be in session at least eight months in the year and be well organized. They shall have suitable school houses with the necessary rooms and equipment. The board in a consolidated school district shall arrange for the attendance of all pupils living two miles or more from the school, through suitable provision for transportation or for the boarding and rooming of such pupils as may be more economically and conveniently provided for by such means.

(2) Besides maintaining schools in consolidated districts conforming to the above requirements the school board may maintain other schools of not more than two departments, and receive state aid for these schools as provided for ungraded elementary schools. (2762)

31. Consolidation of schools—including parts of districts—Consolidation of school districts of any kind may be effected as provided by existing law, except that parts of one or more districts may be included in the vote on consolidation and become a part of a consolidated district as herein-after provided. (Section 1, chapter 387, Laws 1917.)

32. Same; approval of plat by state superintendent—Before any steps are taken to include a part of a school district in a proposed consolidated district the superintendent of the county in which the major portion of the territory is situated from which it is proposed to form such consolidation shall, in addition to the general plat provided for, cause a special plat to be made of the portion of any district proposed to be included in said consolidation. This special plat shall show the location of the entire original district with respect to the proposed consolidated district, the valuation and area of the original district, the valuation and area of that part of the district to be included in the consolidation together with such other information as may be of essential value. The county superintendent of schools shall submit these plats to the superintendent of education who, after taking into account a proper division of the property and of any floating debt of the original district and considering the educational interests of the community to be affected, shall approve, modify or reject the plan so proposed and shall certify his conclusions to the county superintendent of schools. When a plan for consolidation as above referred to has been approved by the superintendent of education, each part of one or more districts thus included shall, for purposes of consolidation, be regarded as an entire district and be subject to the laws and procedure for consolidation of entire districts, provided a petition signed and acknowledged by at least one-third of the resident freeholders from each such part of a district is presented to the county superintendent of schools asking for the formation of said consolidation and provided further that said petition for including a part of a district is approved by the board of the school district affected. (Section 2, chapter 387, Laws 1917.)



**33. Same; independent district; election of board**—When consolidation is effected by a vote of two or more districts or parts of districts, the new district shall thereby become an independent district with the powers, duties and privileges now conferred by law upon independent districts. The county superintendent of schools shall cause a ten-days' notice and one week's published notice, if there be a newspaper published in such district, to be given at a meeting to elect officers of the newly-formed consolidated district. The new board shall be elected in the same manner as now provided when a common district changes to an independent district. (Section 3, chapter 387, Laws 1917.)

**34. Same; bonded indebtedness of school districts**—When a school district not located in an incorporated city or village shall become a part of a consolidated district and is bonded for the erection of a school building, the proceeds from the sale of said building and site, if sold, shall be applied on the payment of said bonds. The voters of a consolidated district, may, after its formation by a majority vote, take over and assume liability for the payment of the bonded debt of each district or part of a district entering into the consolidation except the bonded debt of any district containing in whole or in part an incorporated city or village. The clerk of the consolidated district shall in case such bond assumption vote carries, give proper notice thereof to the auditor of each county in which any part of such consolidated district is situated. (Section 4, chapter 387, Laws 1917.)

**35. Same; title to property, officers**—In case of the formation of a new district, like proceedings shall be had within ten days after the organization of such district, and in all cases of change of boundaries or consolidation of districts the title to school houses and sites shall vest in the district in which such property is included after such change or consolidation; and in case of consolidation the officers of the old districts shall continue to exercise their duties until the officers of the new district qualify. (2695, G. S. 1913)

**36. Dissolution of districts**—Any district in which for two years no school has been held may be dissolved by the county board, and its territory attached to one or more existing districts, upon notice as in other cases of change of boundaries, in the most equitable manner possible, and with regard to the convenience of the inhabitants; and any funds belonging to such dissolved district after the payment of its debts shall be distributed among such districts by the auditor in proportion to the assessed value of the real property so attached to each. (2753)

A county board has authority, on its own initiative, to dissolve a school district in which a school has not been maintained for two years or more, provided the required notice has been given; and a petition is not necessary. (Smith, May 3, 1913.)

**37. Same; petition for; approval of county superintendent**—Any common or independent school district in any county may be dissolved, annulled and discontinued by the county board of commissioners, and its schools shall be cared for in accordance with the laws governing unorganized territory. A petition requesting the taking of such action shall be presented to said county board of commissioners and shall contain a correct description of the territory included in said district, the number of persons residing therein, the total assessed valuation of all property within said district, and request that such district be dissolved, annulled and discontinued. Such petition shall be signed by a majority of the freeholders qualified to vote for school officers in said district and before being presented to the county board it shall be approved by the county superintendent of schools if such petition meets with his approval. Provided, how-

ever, that in case the majority of the freeholders in any common district are not citizens and not qualified to vote and in case the number of children of school age residing in the district becomes fewer than ten, said school district may be automatically dissolved by resolution of the county board and shall become a part of the unorganized territory of said county; and the assets and liabilities of such district shall be assumed by the county board of education for unorganized territory in the same manner as now provided for by law in the dissolution of school districts. (2863 as amended by chapter 222, Laws 1925.)

38. Same; notice of hearing petition of county board—Upon the presentation of such petition approved as aforesaid, the county board shall designate a time for hearing the same and notice thereof shall be given in the manner provided by law for notice in the case of the formation of the school district. (2864)

39. Same; appeal from action of board—At such hearing the board shall act in a manner similar to the action provided by law for the formation of districts, and any person aggrieved may appeal in like manner. (2865)

40. Same; county board; disposition of funds—If said petition is granted by the county board, then said school district shall from that time cease to exist and all of the territory thereof and the schools previously conducted by it shall then come under the jurisdiction of the county board of education of said county, and shall thereafter be managed by said county board of education in the same manner as if said district had never been organized. And it shall be the duty of the officers of said vacated school district to forthwith deliver to the county auditor of said county all of the books and records of said school district, and to the county treasurer all of the money and school funds in its possession, and said county treasurer shall forthwith credit all such moneys and school funds to the account of the county board of education of such county. The county treasurer shall thereafter credit to the account of said county board of education all moneys and school funds thereafter collected from any previous tax levy made by said school district, except such moneys and school funds as are derived from taxes levied for the purpose of paying the bonds or interest on the bonds of any such school district. (2865a)

41. Same; outstanding obligations—All incurred and outstanding obligations of any district so discontinued and vacated shall be and remain a charge upon the property formerly within said district to the same effect as if said district had not been discontinued, and the county auditor shall each year levy against all of the taxable property within the limits of said former school district a sufficient levy, not to exceed the maximum provided by law, for the cancellation and liquidation of such outstanding indebtedness, such levy to be made year after year until said entire indebtedness is cancelled and extinguished. And the amount levied by the county board of education upon all taxable property in unorganized territory shall be levied upon the property within the limits of said former school district in addition to the amount so levied by said auditor and in the same proportion that it is levied upon the taxable property in said county outside of organized school districts. (2866)

42. Same; certain counties exempt—This act shall not apply to any county or counties not having a county board of education as provided in this act. (2870)



43. **Dissolution of consolidated school districts**—Any consolidated school district, which has not issued any bonds since its organization, and in which district the voters thereof have voted against issuing bonds may be dissolved in the following manner:

Upon presentation, prior to May 1st of any year, to the clerk of any such consolidated school district of a petition signed and acknowledged by at least twenty-five (25) per cent of the resident freeholders, qualified to vote at school meetings, of such consolidated school district, asking that the question of the dissolution of such consolidated school district be submitted to the qualified voters of said district, the clerk shall, within ten days, cause ten days' posted notice to be given in each of said original school districts, or parts of districts, and one week's published notice, if there be a newspaper published in such original school districts or parts of districts, of an election or special meeting to be held, at a time and place specified in such notice, to vote upon the question of such dissolution. (2766)

44. **Same; election to vote upon**—At such meeting the electors shall elect from their number a chairman and clerk who shall be the officer of the meeting. The chairman shall appoint two tellers, and the meeting and election shall be conducted as are annual meetings in consolidated school districts. The vote at such election or meeting shall be by ballot which shall read "For Dissolution" or "Against Dissolution."

The officers at such meeting or election shall, within ten days thereafter, in case of dissolution, certify the result of the vote to the superintendents of the counties in which such original school districts or parts of districts lie, and in case of no dissolution, to the superintendent of the county in which such consolidated district mainly lies. If a majority of the votes cast be for dissolution, the county superintendents, within ten days thereafter, shall make proper orders to give effect to such vote, and shall thereafter transmit a copy thereof to the auditor of each county in which any of said original school districts or parts of districts lie, and to the clerk of each of said districts, and also to the superintendent of education. The county superintendents shall also cause ten days' posted notice to be given of a meeting to elect officers for such original school districts, or parts of districts, and thereupon such original school districts, or parts of districts shall be governed by such laws, and acts amendatory thereof and supplementary thereto, as were applicable to them prior to such consolidation.

The school board of the consolidated school district shall, notwithstanding such vote of dissolution, continue to maintain the schools therein until the end of the school year in the same manner as if no dissolution had been voted, and the terms of office of the members of said board shall not terminate until all the provisions of section 3 hereof have been fully performed. (2767)

45. **Same; apportionment of funds**—In case of the dissolution of any such consolidated school district, the funds in its treasury and undistributed taxes, shall be apportioned to the original school districts, and parts of districts, to the extent the same were collected from the territories thereof. All taxes collected after such dissolution shall be paid to the original school district, or part of district, in which the property upon which the taxes are collected is located; such board shall also apportion to the several original school districts, or parts of districts, that portion of the debts of the dissolved district represented by outstanding orders or otherwise, and shall also apportion the property thereof as may seem to it right and proper, and said apportionment when so made shall be binding upon the said original school districts, or parts of districts, affected, but shall be subject to review by the district court. (2768)

46. Consolidation of school districts within village or city of fourth class—When an incorporated village or a city of the fourth class contains two or more school districts of any kind situated wholly or in part within the corporate limits of such village or city, when only one of such districts maintains a state high school, such districts may be consolidated and form one district in the manner hereinafter provided. (2776)

47. Same; state superintendent of education to consider advisability of consolidation—Whenever a petition signed and acknowledged by at least twenty-five per cent of the legal voters of each school district affected shall be presented to the state commissioner of education requesting that the said districts be united to form one district, and requesting the said state commissioner to call an election within each affected district to vote upon the consolidating of such districts, the state commissioner of education shall make proper inquiry as to the advisability of such proposed consolidation, and if he shall deem it for the best interest of education therein and of the territory affected, he shall order an election to determine the question of such proposed consolidation to be held within each of the districts affected. Notice of such election shall be given by posted and published notice as required by law for the consolidation of school districts. Such elections shall be conducted in the same manner as are annual school elections in independent districts. The vote shall be by ballots which shall read "For Consolidation," or "Against Consolidation." (2777)

Electors present should choose a chairman and clerk pro tem to take charge of meeting. The chairman should appoint two tellers to take and canvass the votes. The chairman and clerk should certify the result of the election to the county auditor and state superintendent of education. (Hilton, June 15, 1918.)

48. Same; certifying election—The officers of such election shall certify and make return of the result of the election to the State Commissioner of Education. If a majority of the legal votes cast at such election in each school district shall be in favor of such consolidation such district shall be consolidated and the state commissioner of education, within ten days after the result of such certification and return, shall make an order to give effect to such vote and declare the consolidation, specifying the number of such new district and transmit a copy thereof to the auditor of each county in which any part of any district affected lies and to the clerk of each district affected.

After the formation of any consolidated school district under this act any person aggrieved may appeal from said order of the commissioner declaring such consolidation to the district court of the county as now provided by law in connection with the formation of other school districts. (2778)

The superintendent's order should be made on a certified copy of the return of the officers of the election at which consolidation was voted. (Hilton, June 15, 1918.)

49. Same; existing indebtedness—Nothing in this act shall be construed to transfer the liability of existing indebtedness from the district or territory against which it was originally incurred. (2779)

50. Same; state aid—A consolidation formed under this act shall not entitle the district to any of the state aid for consolidated schools unless the district and its schools conform in all respects to the provisions for consolidated schools under chapter 238, Laws of 1915. (2780)

## CHAPTER II.

### SCHOOL MEETINGS.

51. The annual meeting of all common and independent districts shall be held on the third Tuesday in July, at 7 o'clock P. M., unless a different hour has been fixed at the preceding annual meeting, upon ten days' posted notice given by the clerk, and specifying the matters to come before such meeting, but failure of the clerk to give such notice, or to specify the business to be transacted thereat, shall not affect the validity of any business, except the raising of money to build or purchase a schoolhouse, the authorizing of an issue of bonds, the fixing of a schoolhouse site, the organization as an independent district, or the change from an independent to a common district. The boards of education or trustees in special school districts may fix the time of the annual meeting, when so authorized by vote of the district: Provided, that the polls at all school meetings shall be held open at least one hour. (2793 as amended by chapter 147, Laws 1925)

The time and place of an annual meeting need not be designated at the last preceding annual meeting. (12 M. 17) (Gil. 1.)

A notice of meeting over the signature of five or more freeholders, qualified electors of the district, but which fails to recite on its face that the signers were such freeholders, is not void for want of such recital. (45 M. 88.)

When the polls at a school meeting have been held open for one hour and the ballots counted, they cannot thereafter be opened and another ballot taken, even when there has been no choice.

At the election of school officers, a plurality of votes only is necessary to a choice, and not a majority of all the votes cast under section 1308, R. L. (Young, July, 1906.)

A school meeting may be held open until the business is transacted, whether it be for an hour or more, under section 1305. (Young, p. 185.)

The term "posted notice" shall mean the posting at the beginning of the prescribed period of notice of a copy of the notice or document referred to, in a manner likely to attract attention, in each of three of the most public places in the district to which the subject-matter of the notice relates, or in which the thing of which notice is given to occur or be performed. (Sub. 14, Section 5514, R. L. 1905.)

The legal voters at the annual or at a special meeting have no power to select a teacher, or to determine what salary shall be paid. These are questions for the district board, which "gets its authority, not from the voters, but from the law."

The right of a teacher to vote at the place where she is teaching depends entirely upon whether or not she is a resident of that place; and residence is largely a matter of intention. If she is a resident, that is, intends to make it her permanent home, she is entitled to vote, otherwise not. (Young, May, 1907.)

The mere fact that a man owns a farm in a school district does not entitle him to vote therein at the annual school meeting. If he is a resident of an adjoining district, and is otherwise qualified, that is the place for him to vote. (Simpson, July 9, 1909.)

The polls at a bond issue election must be held open at least one hour; but the board may specify the hour. (Hilton, April 25, 1919.)

Notice of the annual meeting must contain a provision for raising money for building purposes, or such action cannot be taken, as the electors must be fully apprised of the fact that such matter will come before the meeting for consideration, to make any action thereon legal. (Simpson, July 22, 1909.)

It is not necessary that the question of providing transportation for children to and from the school be inserted in the call for the annual school meeting, but the district can take such action at the meeting without it being stated in the call that the question will be considered. (Simpson, Aug. 4, 1910.)

Before the question of a change of a school house site can be acted on, a meeting must be called as provided by law, in the notice of which the question must be stated clearly and definitely as to the object of the meeting; where the law provides that a petition or request shall be signed by five freeholders and voters of the district, it is necessary that such signers be both freeholders and voters; and women have the right to sign such petitions when they are freeholders and voters. (Simpson, Sept. 19, 1910.)

A record of a meeting which states that it was held "pursuant to notice previously given in writing agreeably to the statute" is prima facie evidence of a regular notice. (12 M. 17) (Gil. 1.)



A person who is a candidate for re-election at a school meeting, may act in an official capacity at such meeting. (Young, p. 204.)

An election of school officers is not necessarily invalidated on account of the polls being kept open less than the time named in the statute, unless it is made plainly to appear that such numbers of voters were thus deprived of the right to vote as would have changed the result. (Childs, August 13, 1895.)

The mere fact that the school meeting was not called to order until a half or three-quarters of an hour after the time named in the law would not in itself render the meeting invalid. (Childs, August 8, 1892.)

An annual meeting held either at an earlier or later date than that prescribed in the statutes is invalid for any purpose. (Childs, July 29, 1896.)

In case of a tie vote for trustee at an annual school meeting a second ballot cannot be taken, but a vacancy exists which the board of trustees is authorized to fill by appointment. (Douglas, July 31, 1900.)

A member of the school board cannot legally receive a salary for teaching the school of his district. (Smith, April 9, 1915.)

**52. Powers of annual school meetings**—The annual meeting, not less than five legal voters being present, shall have power:

1. To elect a chairman and clerk pro tem, if the chairman and clerk of the board be absent; but in common and independent districts the chairman and clerk of the school board shall officiate in their respective capacities at all meetings of the electors of the district.

2. To adjourn from time to time.

3. To elect by ballot officers of the district. In all elections or vote by ballot, the clerk shall record the names of all voters participating therein, and the chairman shall appoint as tellers two disinterested electors, who, with the assistance of the clerk, shall supervise the balloting and canvass the votes.

District officers must be elected by ballot. (Wilson, p. 352.)

The proceedings of a school meeting presided over by a moderator not elected in due form are valid if no objection be made at the time. (Hahn, p. 477.)

The law requires that the election of school district officers must be by ballot, and that the polls shall remain open for one hour, and the election of officers by acclamation is not in compliance with law, and can in no way be considered a legal election. (Simpson, July 22, 1909.)

Section 1308, R. L. 1905, empowers the annual meeting of a school district "to elect by ballot officers of the district." The law does not now, as it formerly did, require that an officer be elected by a majority of all votes cast, and a plurality vote is sufficient. (Simpson, June 17, 1909.)

4. To designate a site for a school house, and provide for building or otherwise placing a school house thereon, when proper notice has been given, but a site on which a school house stands or is begun shall not be changed, except by vote therefor, designating a new site, by a majority of the legal voters of the district, who have resided therein not less than one year prior to the vote.

If a school district, at a properly called meeting, votes to change the present school house site, and locate the school building upon a new site, at a definite place, and the district cannot make satisfactory terms with the land owner, then the school district, by proper proceedings in court, can have the necessary land condemned. (Simpson, May 17, 1910.)

It is not competent for the voters at a school district meeting to appoint a building committee for a new schoolhouse. It is the business of the board to attend to the management of such building, and this power and duty cannot be taken from them by a district meeting. (Smith, May 12, 1914.)

It is not competent for the district at any meeting thereof to delegate to the board the designation of a schoolhouse site. (Smith,——.)

Where a district election is called to vote upon the question of the selection of schoolhouse site, and the ballot has been taken and the will of the voters determined, it is not competent for another ballot to be taken at the same election; but another election may be called to vote on the same proposition. (Smith, May 5, 1915.)

A school district has authority to employ a part of a dwelling house as a schoolhouse. (7 M. 203) (Gil. 145.)

A meeting must determine upon the erection of a schoolhouse or the selection of a site before a tax can be levied therefor. (10 M. 433) (Gil. 345.)

When a district purchases a site for a schoolhouse, erects a schoolhouse thereon, and continues to use it, it will be presumed that the site was legally selected by the voters, and that the officers acted within the scope of their authority, when all the records relating to it have been lost. (83 M. 111.)

The purchase of a schoolhouse site under void proceedings may be ratified by the subsequent action of the voters, such as approval thereof at the next annual meeting. (122 M. 60.)

Voters may at a lawful meeting rescind vote of former meeting as to selecting site and raising money to build a schoolhouse. (Wilson, p. 366.)

While the question of a new site and of raising money for a schoolhouse may be voted upon in one ballot, it is better practice to vote upon them separately. (Young, May, 1907.)

It appears that the trustees built the schoolhouse well to the northern boundary of the district, and in so doing ignored the vote of the district in fixing the site. In this they clearly exceeded their authority, and the district would not be bound by their action, and could not be compelled to pay for the house. (Wilson, p. 297.)

The annual school district meeting, if held without the statutory notice, cannot vote money for the building or purchasing of a schoolhouse, or fix the site thereof, but may transact all other lawful business. (Wilson, p. 324)

Notices are not essential to the legality of an annual school meeting, but when money is to be raised to build or buy a schoolhouse or fix the site thereof, written notices setting forth that such money is proposed to be raised or a site established must be posted as prescribed in the law. (Cole, p. 74.)

5. To repeal and modify their proceedings from time to time, in accordance with the powers therein conferred. (2798)

Must Show Authority.—As school districts are mere creatures of law, established for special purposes, and derive all their powers from the acts creating them, it is perfectly just and proper that they should be obliged strictly to show their authority for the business they transact and be confined in their operations to the mode, manner and subject-matter prescribed. (School District No. 7, Wright County vs. J. H. Thompson, 5 Minn., p. 221.)

53. Additional powers of annual meeting in common school districts—In addition to the foregoing powers, any common school district at its annual meeting, or at a special meeting when proper notice has been given, may vote a sufficient fund for maintenance of its schools and for all other proper purposes, appoint a librarian, and make rules for the use and management of the library, and direct the school board to make designated improvements to school property, and to provide free textbooks for the schools. (2800)

Where at a meeting it was voted to have school kept for a specified time, and sufficient funds provided, the trustees are liable to a penalty by neglecting without excuse, to provide the school for the specified time. (17 M. 227.)

A common school district has no authority to loan money raised by taxes for the carrying on of its schools. (Young, p. 191.)

When a district at its annual meeting has voted to keep eight months' school and provided the funds, it may afterward at a special meeting, legally called under section 1306, R. L., change the length of the school term. (Young, p. 192.)

In an independent district the board may be authorized to purchase a site or change it, by a majority vote. (Young, p. 182.)

The district meeting may ratify a contract by the trustees for more than five months' school, and levy a tax for the payment of teachers so employed. (Cole, p. 102.)

If a district votes to have school for a longer time than that required by law, it must also vote adequate means to support it. The trustees have no power to levy a tax to meet the increased expense. (Cornell, p. 256.)

54. Same; district clerk to mail notice—The annual school meeting of any common school district may in its discretion authorize and direct the district clerk to mail a notice of annual and special school meetings to the electors of the district, at least five days before the date of the meeting; provided that the failure or neglect of the clerk to mail such notice shall not affect or invalidate the said meeting or the business transacted thereat. (2795)

55. Special meetings—Upon the written request of five freeholders and voters of a district, specifying the business to be acted upon, or upon

the adoption of a proper resolution, so specifying, by the school board, or upon a request, so specifying, signed by a majority of the members of the school board, the clerk shall call a special meeting of such district upon ten days' posted notice and one week's published notice, if there be a newspaper printed in such district, and shall specify in such notice the business named in such request or resolution and the time and place of meeting. If there be no clerk in the district, or if he fails for three days after receiving such request or resolution to give notice of such meeting, it may be called by like notice signed by five freeholders and voters of the district. No business except that named in the notice shall be transacted at such meeting.

In case it shall be made to appear by affidavit that there are not five voters who are freeholders in any school district, or that there is not a legal school board therein, the county superintendent of schools of the county in which such district is located, shall if in his opinion there is need for such school meeting, call such meeting by giving notice thereof as hereinbefore provided. (2794)

The powers of a school district are the same at a special as at an annual meeting. (12 M. 17) (Gil. 1.)

When two requests or petitions for meetings to consider different matters, are filed, it is immaterial which meeting is first called; though the natural and orderly course is to call the meetings in the order in which requests were filed (Young, May, 1907.)

When a petition is filed with the clerk for a special meeting, it is his duty to call such meeting by posted and published notices; and if he fail to do so, such meeting may be called by like notices signed by five freeholders of the district. It is neither necessary nor proper that the board act upon such petition or request. (Young, May, 1907.)

A special school meeting to bond a school district to build a new schoolhouse cannot lawfully be held on Memorial Day, May 30th, and the state board of investment would not accept bonds voted on that day, and would not loan state money thereon. (Simpson, June 8, 1910.)

It is not proper for the electors at a special school meeting to appoint a building committee consisting of two members of the board and one outsider, to dispose of an old schoolhouse, and let a contract for a new one. When a school district votes to build a schoolhouse, designates a site and provides funds for the purposes, the trustees of the district are charged with the duty of executing the will of the district in the premises. (Simpson, July 22, 1909.)

Under sections 1306, 1308, 1320, R. L., the site of a schoolhouse may be changed at a special meeting of the voters. (141 Northwestern Reporter, p. 801.)

Where at a special meeting, the proposition to change the location of a schoolhouse was voted on and declared carried by the moderator, it sufficiently appears it was carried by the vote required, although the proof did not show the affirmative voters were a majority of the resident voters. (121 M. 376.)

A special school meeting duly called for the purpose of deciding upon a school house site, can be adjourned and the vote taken upon the question, at an adjourned meeting, and it would seem that anything could be transacted at a properly adjourned meeting that could have been transacted at the original meeting. (Simpson, March 25, 1909.)

At a special meeting of the school district for the selection of a school site, no site can be selected which has not been described in the notice of meeting. (Hilton, April 25, 1918.)

**56. Rights of women as electors and officers**—Women may vote for school officers and members of library boards, and shall be eligible to hold any office pertaining to the management of schools or libraries. Any woman of the age of twenty-one years and upward and possessing the qualifications requisite to a male voter, may vote at any election held for the purpose of choosing any officers of schools or any members of library boards, or upon any measure relating to schools or libraries, and shall be eligible to hold any office pertaining to the management of schools and libraries. (Article 7, section 8, State Constitution.)

A woman who is entitled to vote, and is a freeholder, can sign petitions and remonstrances respecting the formation and alteration of school districts. (Clapp, August 23, 1838.)

Women may vote upon the question of fixing the site for a schoolhouse. (Childs, February 21, 1895.)



Women may vote upon the question of the issuance of bonds for the purpose of erecting school buildings. (Childs, February 21, 1895.)

Women twenty-one years of age and otherwise eligible are entitled to vote at school meetings on question of issuance of district bonds. (Douglas, April 3, 1899.)

There is no property qualification required to entitle a person otherwise qualified to vote at an annual school meeting upon the question of raising money for improvements in the district. The same general qualifications maintain as for general elections. (Simpson, August 3, 1909.)

**57. Records to be evidence**—The records of all school districts and boards, and all transcripts thereof, or of any part thereof, certified by the clerk or other officer having custody thereof, shall be prima facie evidence of the facts therein stated, and all records, books and papers of such district or board shall be subject to the inspection of any voter of the district. (2796)

**58. Candidates for school district officers to file with clerk before annual school meetings**—Any person desiring to be a candidate for a school district office at the annual meeting of such district shall file with the clerk of such district an application to be placed on the ballot for such office or any five (5) voters of the district may file such application for or on behalf of any qualified voter in the district that they desire shall be such candidate. Such applications shall be filed not more than thirty (30) nor less than twelve (12) days before the annual school district meeting. The clerk of the district in his notice of annual meeting shall state the names of the candidates for whom applications have been filed, failure to do so, however, shall not affect the validity of the election thereafter held. The clerk shall prepare at the expense of the district, necessary ballots for the election of officers, placing thereon the names of the proposed candidates for such office, and with a blank space after such names, and such ballots shall be substantially prepared as are ballots for general elections; such ballots shall be marked and signed as official ballots, and which said ballots so prepared by the clerk of the said district shall be used to the exclusion of all other ballots at such annual school meeting in the election of officers of said district; provided that nothing in this act shall apply to or affect school districts employing but one teacher. (2799 as amended by chapter 295, Laws 1925)

A voter may cast his ballot for a person whose name does not appear on the ballot in a school district election. (Hilton, July 9, 1918.)

There is no objection to using the Australian ballot system in the election of school district officers provided a blank space is left on the ballot. (Smith,

A school district election is not illegal, however, because a blank space is not left on the ballot. (Smith, Sept. 20, 1917.)

No ballots should be counted in a school district election except those prepared by the clerk. (Smith, July 20, 1917.)

If the clerk prepares no ballot the voters may write ballots of their own which should be counted. (Smith, Sept. 18, 1917.)

**59. Election of officers in certain districts**—In any common school district containing over three hundred voters, in counties having a population of more than fifty thousand and less than one hundred thousand, the school board shall divide the district for the purpose of electing officers, voting on the issue of bonds, or other matter specifically submitted for vote by ballot, into precincts for each three hundred voters, or major fraction thereof. The voters present at the opening of the polls shall choose a moderator and two clerks, who shall forthwith certify the result of the vote to the clerk of the district. Such vote shall be canvassed and the result announced at the annual meeting, except in case of a special election, when the same shall be canvassed by the district officers as soon as practicable after the receipt of the returns. Such regular elections shall be held on the Saturday preceding the annual meeting, and at the

same hour and upon the same notice, and no matter except the election of officers shall be voted upon at such meeting, unless specified in the notice. (2801)

60. Elections; conduct of in certain independent districts—In all independent school districts in this state, having within their boundaries two (2) or more organized villages, the school board shall at least, thirty days before the next annual school meeting to be held in such districts after the passage of this act, by resolution in writing, divide the district into precincts for the purpose of electing members of the school board, voting on the issue of bonds, and on all other matters specifically submitted for vote by ballot; and may thereafter change the boundaries of such precincts, consolidate two or more, or establish new one, as the convenience of the voters shall require. Such resolutions shall describe the precincts, giving the boundaries thereof, fix a polling place at some school building in each precinct most convenient and accessible to the majority of voters therein, and shall be filed in the office of the district school clerk, and a copy thereof forthwith filed in the office of the county auditor of the county wherein the district is located. (Section 1, chapter 111, Laws 1915, amended by section 1, chapter 433, Laws 1923)

61. Same; notice of, when polls to be open—The regular elections held in said precincts shall be on the Saturday next preceding the annual school meeting of such district. The polls shall be opened and closed at the hours fixed by the previous annual meeting, except that at the first election held after the passage of this act the hours of opening and closing the polls shall be fixed by the school board. Notice of such elections shall be given in each precinct in the same way and for the same length of time as provided by law for annual school meetings, stating the time and place, and the matters to be voted on; and no proposition, except the election of officers, shall be voted on by ballot unless specified in the notice. (Section 2, chapter 111, Laws 1915.)

62. Same; organization and conduct of—At least twenty days before the next annual school meeting of such district, said school board shall, by resolution filed with the clerk of the board, appoint from the resident electors a moderator or judge of election and two clerks from each precinct. The clerk of said school board shall immediately notify in writing each person so appointed, of his appointment, and such person if present at the hour set for opening the polls, shall qualify, open the polls and conduct such elections the same as elections are conducted at annual school meetings. If any of such appointed officers are absent or fail to act at the hour set for opening the polls, the electors present may choose any elector then present to fill the vacancy, who shall qualify and act. Each voter shall after marking his ballot, fold the same so as not to disclose any markings thereon, hand the same to the moderator, who shall deposit it in the ballot box. The election officers shall keep a poll list in which they shall write the name of each elector voting, numbering the same in consecutive order. At the time fixed the polls shall be closed, and the officers of election in each precinct shall forthwith count the votes and certify the results of the vote to the clerk of the district, place the certificate, poll list, ballots and all other records of such election, in an envelope, securely seal, and mail or deliver the same forthwith to the clerk of the district. (Section 3, chapter 111, Laws 1915)

63. Same; canvass of vote; declaration of result; board to canvass votes—The school board shall canvass said votes and declare the results thereof at the next annual school meeting. The result shall then stand, and the board shall take such action in regard to said election and all matters voted upon thereat, as if the election had been held at such annual meeting. (Section 4, chapter 111, Laws 1915.)



64. **Some; special; when held; conduct of**—Special elections may be called and held in such districts the same as heretofore provided by law, except that in all matters to be voted upon by ballot, such elections shall be held in such precincts instead of at a school meeting. Notice of such special elections shall be given in the same way and for the same time as is now provided by law for special elections in independent school districts. The election officers appointed for the regular election shall preside at such subsequent special elections, and vacancies by reason of absence or failure of any such officer to act, may be filled in like manner as at regular elections. Such special elections shall be conducted and the records thereof certified to the school board the same as for regular elections. The school board shall canvass the vote and declare the results thereof within three days after the receipt of such returns from all the various precincts. (Section 5, chapter 111, Laws 1915.)

65. **Same; application of general laws to**—Except as herein specifically provided, the general laws relating to the holding of school meetings, special school meetings, and special elections in independent school districts, shall be applied, construed and used by said school boards and by said officers of elections in carrying out the provisions of this act. (Section 5, chapter 111, Laws 1915.)

### CHAPTER III.

#### SCHOOL BOARDS AND OFFICERS.

66. **School board**—The care, management and control of common and independent districts shall be vested in a board of trustees, to be known as the school board, whose term of office shall be three years and until their successors qualify. (2804)

Cities and villages and the school districts within them, are distinct and independent corporations. A member of the school board must be a resident of the district he represents. Chap. 235, Laws 1901, applies to cities whose boundaries are co-extensive with the school district; and until the territory of both city and district are co-extensive, members of the school board cannot be elected as prescribed in that chapter. (Young, July, 1907.)

No person can vote on a school board as a proxy for a member thereof. (Smith, April 13, 1916.)

67. **Same; in common districts**—The school board of each common school district shall consist of a chairman, a treasurer and a clerk. At the first meeting of each school district embracing or containing less than ten townships, the chairman shall be elected to hold office until August 1 following the next annual meeting; the treasurer until one year from such date, and the clerk until two years from such date. At the first meeting in each common school district, embracing or containing ten or more townships, the chairman shall be elected to hold office until August 1 following the next biennial general state election, and the treasurer until one year from such date, and the clerk until two years from such date. Said trustees so elected in districts embracing or containing ten or more townships shall be paid such salary or compensation as the electors or legal voters of such district at the annual meeting thereof shall fix or determine, and the electors or legal voters of such district at the annual meeting thereof shall have power and are hereby authorized by a majority vote to fix and determine and authorize the payment of salaries or compensation to said trustees. The vote upon the payment of such salaries or compensation shall be by ballot. (2805)

The election must be made by ballot. "An election, therefore, of school district officers by viva voce vote would be irregular and invalid. A person elected in this way to office would have no title that he could assert against a regular incumbent of the office holding after the expiration of this term. And yet a person elected by a viva voce vote, having qualified and assumed the duties of the office to which he was elected, would be an officer de facto and his acts as to third persons would be valid." (Wilson, p. 352.)

It is no part of the duties of the county attorney to advise school district officers. For the services named he would be entitled to the same fees as if performed at the request of a private individual. (Hahn, p. 468.)

Under our constitution and laws, aliens are not eligible to any office elective by the people. If, however, an alien were elected to the office of district clerk of a school district, or appointed to such office by the proper appointing power, and should assume such office by virtue of such election or appointment, and exercise the duties thereof, he would be an officer de facto, and his acts, though not those of a lawful officer, the law, upon principles of policy and justice, would hold to be valid, so far as they involved the interests of the public and third parties. (Wilson, p. 316.)

Many matters arise relating to the election of school district officers. While it is important that all the requirements of the law be complied with, it should be borne in mind that the official act of an officer does not necessarily depend for its validity upon the regularity of his election. Where a person is exercising the duties of an office under color of authority, claiming title to the same, he is what in law is termed an officer de facto, and his acts are valid until he is ousted from the office by legal proceedings, or abandons the office. The right of a de facto officer to hold the office cannot be questioned collaterally, but can only be questioned in an action brought directly against him to oust him from the office; thus, it may frequently happen that a person is occupying an office and his acts as such officer will be valid, yet his title to the office be so defective that in a direct proceeding brought against him to oust him, his title to the office could be defeated. (Clapp, March 25, 1891.)

68. Same; in independent districts—The school board of each independent school district shall consist of six directors. At the first meeting of the district, six directors shall be elected, two to hold until August 1 following the next annual meeting, and two to hold until the expiration of one year, and two until the expiration of two years, from said August 1; the time which each director shall hold being designated on the ballot. (2806)

Non-voting of certain members of the school board in an independent district permits the election of a superintendent by a majority vote of a quorum, the rule being that if there is a quorum present, and a majority of the quorum vote in favor of a measure, it will prevail, although an equal number should refrain from voting. It is not the majority of the whole number of members present that is required; all that is requisite is a majority of the number of members required to constitute a quorum. (Simpson, March 16, 1909.)

The president of the board of education is a member of the board, and the fact that he is chosen to act in the official capacity of president does not deprive him of the right to vote. Four members of a board will constitute a quorum, whether the president of the board be one of that number or not. (Simpson, August 11, 1909.)

69. Organization of school boards in independent districts—Within ten days after the election of the first school board in independent districts, and annually thereafter on the first Saturday in August, or as soon thereafter as practicable, the board shall meet and organize by choosing a chairman, a clerk, and treasurer, who shall hold their offices for one year, and until their successors are elected and qualified. They may also elect a superintendent for such a term of service as the board may determine not to exceed a term of one year. He shall be ex-officio a member of the board, but not entitled to vote therein. (2807 as amended by chapter 124, Laws 1925)

Where, at a meeting of a school board in an independent district, for the purpose of electing a superintendent, the vote results in three votes being cast in favor of a candidate, one vote against him, and two members of the board not voting, the candidate receiving the three votes is elected. (Simpson, March 16, 1909.)

The chairman of the board in an independent district is a member of the board and as such entitled to vote on all questions before the board. (Hilton, August, 1922.)

There being no provision of law requiring that a written ballot shall be taken by a board of education, on the question of electing a superintendent, an "Aye" and "Nay" vote would be sufficient. (Simpson, March 17, 1909.)

The proceedings at a meeting of the board of an independent district, at which the superintendent is not present by reason of failure to give him notice, are valid. (Douglas, p. 129.)

A person selected to act as chairman or "acting president" of the board of an independent district, in the absence of the president, cannot countersign orders or warrants. (Young, p. 191.)

The officers of boards in independent districts must be chosen from the members of the board.

**70. Vacancies**—A vacancy in any school board or board of education elected by the people shall be filled by the board at any legal meeting thereof until such vacancy can be filled by election at the next annual meeting in school districts containing less than ten townships and at the next general biennial state election in school districts embracing or containing ten or more townships. Such appointment shall be evidenced by a resolution entered in the minutes. All appointments and elections to fill vacancies shall be for the unexpired term. (2811)

When a tie vote results in a ballot taken to fill an office in a school district neither of the contestants is elected. (Hilton, July 23, 1918.)

**71. Same; special election**—If the board shall fail for ten days to fill any vacancy, a special meeting may be called for that purpose by ten days' posted notice signed by three qualified voters, freeholders or householders of the district, setting forth the object of the meeting. Officers elected at such meeting shall hold for the unexpired term, but no such meeting shall be held within thirty days before the annual election or annual meeting in districts containing less than ten townships nor within thirty days before the general biennial state election in districts embracing or containing ten or more townships. (2812)

It is not mandatory that the board fill a vacancy within ten days; and they may fill it at a later time, but should not do so after ten days and after a meeting for the purpose of filling such vacancy has been called by three qualified voters. (Young, May, 1907.)

When a member of the board has removed from the district, his office is vacant; and the vacancy thus occasioned may be filled by the remaining members of the board, and the person appointed will hold office until the next annual meeting, construing section 1316, R. L. (Young, December, 1906.)

In case of a tie vote at an annual school election for officers, a second ballot cannot be taken, but a vacancy exists in the office, which vacancy can be filled by appointment by the school board; but if the board shall fail for ten days to fill such vacancy, a special meeting will be called for that purpose, by ten days' posted notice, signed by three qualified voters, or freeholders of the district, and setting forth the object of the meeting. (Young, 59.)

The word "householder" as used in the foregoing section is one who is master or chief of a family occupying a dwelling house; one who occupies a house as a place of residence, without any relation to the title by which such property is held. The term refers to the civil status of the person and not to his property therein or otherwise. Consequently one may be a "householder" without owning real estate or interest therein; and one may be a "freeholder" and not a "householder," or a "householder" and not a "freeholder." Under the foregoing section it is not necessary for a signer of the petition to be a "freeholder"; but if he is a voter in the district and a "householder," it is sufficient. If he is either a voter in the district he is qualified. (Smith, November 24, 1913.)

When after the annual meeting two vacancies exist in the board of a common district, a special meeting should be called to fill such vacancies. They cannot be filled by appointment by the third and remaining member of the board. (Hilton, July, 1920.)

**72. Acceptance of office—Oaths, where filed**—All persons elected or appointed district officers shall, within ten days after notice of such election or appointment, file with the clerk or secretary of the district his acceptance of the office and his official oath, or be deemed to have refused to serve, but such filing may be made at any time before action to fill the vacancy has been taken. (2813)

**73. Quorum in school boards**—A majority of the school board shall constitute a quorum, but no contract shall be made or authorized except at a meeting of the board of which all members have had legal notice. (2814)



Contracts, to be binding on the district, must be made or ratified by at least a majority of the board after notice and an opportunity to all the trustees to take part in the matter. (35 M. 163.)

To bind the district, contract for supplies by two trustees must be authorized or ratified at a meeting of the trustees; but if such supplies are received and used by the district for such a length of time as to raise the presumption that it was with the common consent of the district, it would be bound to pay for them. (37 M. 96.)

When two of the trustees employ one to perform work for the district, and such action is ratified by the full board, such employe may recover of the district, notwithstanding the work was for a new schoolhouse when no site had been lawfully selected by the voters, and the trustees were not authorized to build the school house. This is based upon the law that trustees who act within the scope of their authority, bind the district; and the burden of proving excess of power is upon the district. (93 M. 409.)

Director or trustee may not be a party to a contract with the district. *Currie vs. School District*, 35 Minn. 163, 27 N. W. Rep. 922. In order to bind the district, contracts must be made or ratified by at least a majority of the board, after notice and opportunity to all of the trustees to participate in the transaction. (Id.)

When one member of board refuses to assent to contract by majority, he may be compelled to by law. (Cornell, p. 260.)

When a part of the members present refuse to vote at all, a vote may be legally decided by a majority of those actually voting, though they do not constitute a majority of the whole number present. This rule rests upon the principle that members present and not voting will be deemed to assent to the action of those who did vote. (Simpson, March 17, 1909.)

In case of a tie vote in a school board, the proposition voted upon fails to carry. (Smith, April 19, 1916.)

Notice to be given members of a school board of a meeting of the board must be sufficient to give the member a reasonable opportunity to attend the meeting and must be a personal notice. (137 M. 138.)

A meeting of the school board may be called by any member thereof by giving legal notice to the other members of time and place of such meeting. (Hilton, January, 1924.)

**74. Powers and duties of school board**—The school board shall have the general charge of the business of the district, and of the school houses and the interests of the schools thereof, and shall:

1. When authorized by the voters at a regular meeting or a special meeting called for that purpose, may acquire necessary sites for schoolhouses, or enlargements or additions to existing schoolhouse sites, by lease, purchase or condemnation under the right of eminent domain; erect, lease or purchase necessary schoolhouses or additions thereto; and sell or exchange such schoolhouses or sites and execute deeds of conveyance thereof. In any village or city such site, when practicable, shall contain at least one block, and, if outside of any city or village, two acres; and when any schoolhouse site shall contain less than such amount, the board shall, if practicable, acquire other land adjacent to or near such site to make, with such site, such amount. (2815)

The schoolhouse of a district is not subject to a mechanic's lien. (39 M. 298.)

A school district is not liable for money borrowed by its trustees to complete a schoolhouse, without authority, even though it receives the benefit; and no ratification can be inferred from its enjoyment of the improvement for it has had no opportunity to reject. (54 M. 385.)

"When a school district votes to build a schoolhouse, designates site and provides funds for the purpose, the trustees of the district are charged with the duty of executing the will of the district in the premises." (Start, p. 425.)

"Have school district trustees power to hire money to build a school house?" I think not. Corporations, and especially quasi corporations, have only those powers specifically granted to them by statute, and such others as are necessary for carrying into execution those specially conferred. By section 52, school laws, the trustees are authorized "to build, hire or purchase a school house, out of funds provided for that purpose."

A school board has no authority to sell a school building unless authorized by the voters at a regular or special meeting called for the purpose; construing section 1320, R. L. (Young, December, 1906.)

There is no provision of law relating to roads to school sites or buildings. Such roads must be laid out as other roads under section 1171 and 1181, R. L. (Young, July, 1906.)

School boards cannot employ and pay an architect for work done before a school district has voted to erect a schoolhouse, plans for which such architect may have made the architect's plans being considered a part of the work of building the schoolhouse. (Simpson, June 25, 1909.)

A school board cannot purchase land from one of its members though such member did not participate in the action of the board and though the price of the land is less than its value. (Smith, May 12, 1915.)

Where the electors of a school district borrow money from the state, to be used for building a schoolhouse, the school board has no authority to return the money to the state and have the bond of the district issued to the state, cancelled. This could only be done by the school district, at a properly called special meeting for that purpose. (Simpson, March 2, 1909.)

A school board may acquire land by condemnation proceedings and employ an attorney to conduct such proceedings. (Smith, June 18, 1915.)

2. Purchase, sell, and exchange school apparatus, furniture, stoves, and other appendages for schoolhouses.

A promissory note, signed individually by the trustees makes the trustees prima facie personally liable; and the burden is upon them to show it is a valid note of the district. (13 M. 106) (Gil. 96.)

The law provides that "the board of trustees shall have the general charge of the interests of the schools." If there are funds on hand not designated by vote of the district to any specific purpose, and not needed to meet matured or maturing claims of teachers, such funds may be used by trustees to purchase any articles necessary, in their judgement, to the "interests of the school." (Wilson, p. 367.)

Members of the board and teachers cannot, directly or indirectly, be financially interested in sales, leases or contracts relating to district property; and if they do become so interested, they are guilty of misdemeanor and may be prosecuted or restrained. (Donahower, p. 133.)

A school board has power to install an electric plant in the schoolhouse when electric lights are a necessity in the building. (Smith, April 4, 1917.)

3. Provide proper outhouses for the schools, plant shade trees and shrubbery, and otherwise improve school sites, procure insurance on school property, and make proper ordinary repairs thereon.

Although taxes cannot be imposed or local assessments made against school property a school board can arrange for the payments of its proper share of local improvements which will benefit the school property. (Smith, Nov. 17, 1916.)

Where there were sufficient funds on hand therefor, the board of trustees on their own motion caused a well to be dug and a pump placed over it for the use of the school. Held, that the board had no authority to make expenditures of public money for such a purpose until authorized by the voters of the district at a properly called meeting. (Childs, Aug. 24, 1893.)

4. When necessary, lease rooms for school purposes.

A school board has power to rent rooms for a school if the school building is inadequate; it also has power to repair the school house, but has no right to so enlarge and repair it as to constitute a rebuilding or to make a new and larger one out of it. The building of a new school house must be voted on at a school meeting. (Donahower, p. 129.)

Though on account of the low assessed valuation of the property in the township, there is not sufficient money to keep the schools in session for the length of time voted at the annual meeting, and though one school is greatly overcrowded, the school board cannot rent another room and hire another teacher, incur the necessary expense, and issue orders in payment of same, when such orders cannot be paid during the current school year, without a vote of the people. (Young, Oct. 27, 1908.)

5. Employ and contract with necessary, qualified teachers, and discharge the same for cause.

Where, at a meeting, it is voted to have school kept for a specified time, and sufficient funds are provided, the trustees are liable to a penalty for neglecting, without excuse, to provide the school for such time; and the action to enforce the penalty may be brought by a director or a freeholder in his own name. (31 M. 227.)

The trustees have power, prior to the annual meeting, to employ a teacher for the ensuing year, and to bind the district for at least six months and for such further time as shall be fixed by the voters at such annual meeting. (93 M. 411.)

If the trustees have contracted for a school for more than five (5) (now seven) months without special authority from the district, the legal voters at any special or general meeting may ratify such action, and levy a tax for the payment of teachers so employed. If they refuse to do this, the teacher would very likely be without remedy.

Trustees of school districts are public agents, and when they in good faith contract with parties having full knowledge of the extent of their authority, or who have an equal means of knowledge with themselves, they do not become individually liable unless the intent to incur a personal liability is clearly expressed, although it should be found that through ignorance of the law they may have exceeded their authority. Any knowledge of a defect in their authority, accessible to them but not to the teacher, would probably fix a liability on them. (Cole, p. 102.)

The law requires school to be taught in the district at least seven months, and the trustees cannot safely ignore that provision, notwithstanding the action of the district. The district having neglected to vote the requisite tax, it is the imperative duty of the trustees to levy the same. (Clapp, Sept. 24, 1888.)

Trustees may employ more than one teacher if district has funds, notwithstanding an adverse resolution voted by the district. (Wilson, p. 354.)

It is the special business of the trustees to employ teachers. The voters of the district may, in their individual or collective capacity, advise the trustees as to their wishes, but cannot control their action. (Wilson, p. 354.)

"Is the employment of a teacher by the treasurer and clerk of a school district, without any notice to the director, and without any meeting held, legal?" I answer that it is not. (Hahn, p. 536.)

A contract made with a teacher who does not hold a certificate which is valid in the district where he is to be employed, is void, and a certificate cannot be dated back to cover services rendered before it was granted. (Jenness vs. School District 31, Washington County, 12 Minn. 448.)

When a teacher is employed to teach for a specified time and the school is interrupted necessarily, but by no fault of the teacher, who is always ready to fulfill the contract, the teacher, after the expiration of the time, may maintain an action against the district for the entire amount of wages. If, however, the district can show that during the whole or portion of the time the teacher was engaged in similar employment, or was offered such employment and refused it, the damage may be reduced. (Cole, p. 87.)

If in the opinion of the trustees the services of more than one teacher are demanded by reason of the numbers in attendance at a district school, an additional teacher may be employed, the board keeping within the means provided by the district. (Wilson, p. 354.)

A contract made with a teacher before he has secured a certificate is void, and a subsequent issuance of a certificate will not make the same valid. This applies alike in common, independent and special districts.

"Have school boards authority to engage teachers for the following year before the annual meeting?" It matters not whether it is before the annual meeting and the election of the new member or not. The trustees may, either before or after the annual meeting and without express authority from the district, contract for the term required by law, and no more. (Hahn, p. 538; Start, p. 436; Cornell, p. 159.)

If a teacher holds a valid certificate at the time of making a contract which extends beyond the life of the certificate, such contract is good, and will remain so as long as the teacher is in possession of a valid certificate and until the contract expires by its own terms. (Clapp, Oct. 12, 1891.)

The law establishes the school age between five and twenty-one years, subject to the authority granted the board of trustees to fix the minimum age at six years. (Douglas, Aug. 17, 1900.)

School boards have no authority to employ teachers who do not hold certificates, and the district continue to draw state apportionment money. (Young, June, 1907.)

The school board, after the district has voted an eight months' school, may contract with a teacher for eight months at any time prior to a change in the length of the term by vote of the district. (Young, p. 193.)

The clerk of the school district cannot also be a teacher in the same district. (Simpson, July 21, 1909.)

Several school districts may not join in hiring a supervisor but each may employ such supervisor for part time. (Hilton, May 2, 1918.)

6. Provide for the heating and care of schoolhouses and rooms.

7. Provide for the payment of all just claims against the district in cases provided by law.

For claims under Workmen's Compensation act. See chapter 26, Laws 1921.

School boards are not corporate bodies, but rather resemble directors of a corporation. The school district is the corporation. Contracts of insurance of school property should run to the district. A member of the board cannot be interested individually, as agent or otherwise, in a contract of insurance on school property. (Young, p. 182.)



School boards have no right to make good a discount which holders of district orders may be forced to allow to get them cashed. Orders should be issued to persons entitled thereto for the exact amount of their just claims against the district. Such loss as the payees may suffer in cashing such orders must be borne by them; and it cannot be made good by the district. (1913.)

A school board cannot issue school orders in excess of the amount of money on hand available to pay the same; nor for any money to be raised in the future, except such as is to be raised by a tax levy already made. (Smith, May 23, 1916.)

A school board cannot give a promissory note to take up existing indebtedness. (Smith, March 5, 1915.)

A school district is not liable in damages for any injuries sustained by pupils as a result of negligence on the part of the driver of a school bus. (Hilton, February, 1923.)

A school district is not liable in damages or in medical attendance on account of injuries sustained by pupils while playing on the school grounds. (Hilton, April, 1920.)

A school board is without authority to employ a public accountant at the expense of the district. (Hilton, March, 1923.)

A school board cannot legally allow a claim for services, materials or supplies assigned by the person who furnished them to a member of the board. (Hilton, September, 1921.)

8. When directed by a vote of the district, or when the board deems it advisable, adopt, contract for and purchase text-books needful for the schools of the district, and provide for the free use of such books by the pupils of such schools, or their sale to them at cost; but no such adoption or contract shall be for less than three or more than five years, during which time such books adopted shall not be changed.

9. Defray the necessary expenses of the board, including three dollars per day for attending one meeting of the school boards of the county in each year, when called by the county superintendent, and five cents per mile in going to and returning from such meeting, and pay for such record books, stationery, and other incidental matters as may be proper.

10. Superintend and manage the schools of the district, adopt, modify, or repeal rules for their organization, government, and instruction, and for the keeping of registers, prescribe text-books and courses of study, and visit each school at least once in three months.

When the trustees act within the apparent scope of their authority the burden of proving an excess of authority is upon the one alleging it. (93 M. 409.)

The general control of schools is in the board; and if the superintendent and teachers establish rules of discipline and school work to the disadvantage of the welfare of the school, the board has power to change them. (Douglas, p. 129.)

An attorney may be hired by a school board for the performance of any particular service which is necessary, by the adoption of a resolution to that effect, but it is not competent for the board to hire an attorney by the year. (Simpson, Feb. 16, 1910.)

A school board has power to adopt such reasonable rules and regulations as contribute to the moral, physical and intellectual welfare of the pupils attending school, and a rule to the effect that a pupil convicted of smoking on the streets or in public places might be expelled, by the board, from school, would be a reasonable rule and one which could be enforced by the board. (Simpson, Dec. 8, 1909.)

Rules and regulations, whether made by the board, or made by the teacher and afterward ratified by the board, must be reasonable, and the courts have held that a rule is reasonable under which a pupil may be suspended or expelled if he wilfully injures or destroys school property, for this would be a punishment for breach of discipline. But it is also held that a rule which causes a pupil to stand suspended or expelled until he pays for the injury caused by him to school property, or until he pays a fine which may be assessed against him for such injury, is unreasonable and void, because in such a case he would be suspended or expelled, not because of the injury caused by him, but because he did not pay the damages or the fine. (Young, May 27, 1908.)

A school board has power to exclude from school a child who is feeble-minded or of such mental disposition as to disturb the school and detract to an appreciable extent from the furnishing of instruction to the other children. Such a question is largely one of fact to be determined in each case as it arises. (Smith, Aug. 3, 1914.)

If, in the opinion, and according to the best judgement of the board, especially when such opinion and judgement are based upon experience and actual results, the board determines that the attendance by the pupils of the school at public

dances interferes with the regular school work of those participating in the same, and is injurious to the best interests of the school in general, the board can, by adopting a rule, prohibit such attendance. But the rule adopted must be a reasonable one under all the circumstances, and if suspended for violating such a rule, a pupil can have the court determine whether the rule is a reasonable one and such as can be enforced, or is arbitrary, and therefore null and void. (Simpson, April 21, 1909.)

A school board may fix the time for opening and closing school. (Hilton, April 22, 1919.)

A school board can excuse pupils from taking instruction in a foreign language and it cannot compel all pupils to take such instruction. (Smith, Oct. 30, 1915.)

The officers of school district, clerk and treasurer may be held by husband and wife, they being otherwise qualified. (Simpson, July 13, 1909.)

It is not competent for a school board to disregard the action of the annual school meeting, in determining the times when schools shall be held within the district. (Simpson, March 19, 1909.)

Power of board extends to prohibiting competitive sports among pupils. (Hilton, March 3, 1919.)

A school board may properly pay for fumigating the school house. (Hilton, March 4, 1919.)

School board may not pay an attorney for drafting a bill and urging it before the legislature. (Hilton, March 10, 1919.)

A school board can exclude from school children attending in a filthy condition. Such exclusion does not relieve the parents from liability under the compulsory school act. (Smith, Oct. 26, 1916.)

A school board cannot buy land subject to a mortgage but must be prepared to secure the same free from all encumbrances. (Smith, Dec. 17, 1915.)

A school board cannot sell or buy schoolhouse sites without an election called for the purpose of voting upon such sales and purchases. (Smith, April 18, 1916.)

A school board is justified in excluding from school a person who has been exposed to smallpox during the period that there was danger of imparting the disease to others. (132 M. 375.)

Discretionary powers must exist in a board of public officers to determine when and to what extent persons in their employment should be excused by reason of sickness or temporary disability. (O'Leary vs. Board of Education, 93 N. Y. 1. 45 Am. Reports 156.)

A school board has power to employ a person to supervise the play of pupils during school hours, and also to direct their recreation during the time when school work is not being carried on. (Smith, July 14, 1917.)

Schoolboard has authority to require children to submit to a dental examination. (Hilton, October, 1919.)

A failure to maintain school or provide for instruction in a nearby district exposes the members of the board responsible therefor to the penalty prescribed by section 2902, G. S. 1913. (Hilton, April, 1920.)

A school district cannot maintain a waterworks system jointly with the town. (Hilton, June 8, 1918.)

A school board may make a rule forbidding pupils to enter school buildings or grounds before half past eight in the morning and one o'clock in the afternoon. (Smith, Sept. 26, 1917.)

Either the school board or the local board of health, acting upon orders from the state board of health, may order the schools closed because of an epidemic; but only the school board may order them opened. (Hilton, October 21, 1918.)

When a school board has established a school for children of defective speech, it may adopt a rule requiring attendance in such classes. (Hilton, December, 1921.)

11. In all proper cases, prosecute and defend actions by or against the district. (2815)

Under sec. 1320, subd. 11, R. L., the board may prosecute an action against the treasurer when he refuses or fails to turn over to his successor in office any portion of the district funds in his hands. (Young, p. 385.)

A school district is not responsible in damages on account of an accident sustained on the school grounds. (Hilton, September, 1919.)

75. Additional powers of board—The school board may also:

(1) Provide for the admission to the school of the district of non-resident pupils, and those above school age, and fix the rates of tuition for such pupils.

Provided, in case a person has real property in, and pays taxes thereon, in a common or an independent school district other than the one in which he resides, then such person shall be admitted to all the benefits



of such other school, the same as the residents therein, and if the owner of less than 80 acres therein, he shall be admitted to all the benefits of said school the same as residents therein, upon conforming to such reasonable terms for tuition as the board of education of such school district may have established for non-residents, except that he shall be entitled to have the amount of school taxes which he pays to the support of said district applied in payment of said tuition fees.

Provided, further, that nothing in this act shall be so construed as to authorize any person who may receive any of the benefits or privileges of this act to vote at any school district meeting of the school district within which he may receive such benefits or privileges, but of which he is not a member.

The question of whether a person is an actual resident of a school district is one which depends upon the facts in the case. (91 M. 268.)

The board has sole power to admit non-resident pupils to the school. Non-residents cannot attend without its permission, and it may withdraw such permission at any time. (Young, p. 196.)

Under sec. 1321, R. L., the board has the sole power to fix the rate of tuition for non-resident pupils. It may take into consideration the relations of such non-residents to the district; and if such non-residents pay taxes in the district, it may fix a lower or nominal rate of tuition in their cases. (Young, p. 200.)

The right of a child to free tuition depends upon the residence of such child without regard to the residence of its parents. If such child comes into the district for the mere purpose of attending school, the board may, in its discretion, charge tuition, or exclude him altogether. On the other hand, a child who actually resides in the district is entitled to school privileges without charge. The question of actual residence is one to be determined from all the facts in each case. (Young, p. 177.)

Under sec. 1321, R. L., a parent or guardian may send his children to any school he pleases, either in the district of his residence, or in another, by complying with the regulations of the board of such other districts as to tuition, etc. (Young, p. 201.)

The school board may charge non-resident pupils the cost price of books and supplies used by them. (Young, p. 196.)

The privilege, extended to the owner of land in a school district in which he does not reside, of having the amount of tax paid by him on his land applied on the tuition of his children in case he wishes to send them to the school of such district, does not extend to the tenant or renter on such land. (Young, p. 207.)

Pupils attending school in a district of which they are not residents, registered as paying book-rent, shall not be counted for drawing apportionment, under sec. 1321 and 1346, R. L. (Young, p. 185.)

One owning more than eighty acres of land in a district of which he is not a resident, is entitled to send his children to school in such district without paying tuition; but if he owns less than eighty acres, he should be admitted to all benefits of such district upon conforming to such reasonable tuition charges as the board has established for non-residents and is entitled to have the school taxes he pays to support such district applied upon tuition. In either case he is not entitled to vote at the meetings of the district construing chapter 445, Laws 1907. (Young, May, 1907.)

A school district maintaining a high school may refuse to receive further non-resident pupils, though duly qualified and coming from a district not maintaining a high school, when the high school enrollment reaches the reasonable maximum capacity for efficient work. (Hilton, June, 1924.)

(2) Establish and organize, alter and discontinue, such grades of schools as they may deem expedient.

(3) Authorize the use of any schoolhouse in the district for divine worship, Sunday schools, public meetings, elections and such other similar purposes as in their judgment, will not interfere with its use for school purposes; but before permitting such use, the board may require the bond of some responsible party, in the penal sum of one hundred dollars, conditioned for the proper use of such schoolhouse, the payment of all rent, and the repair of all damage occasioned by such use, and they may charge and collect for the use of the district from the persons using such schoolhouse such reasonable compensation as they may fix.

Note: Special authorization to grant use of school house for elections, chapter 370, Laws 1927.

Under chapter 417, Laws of 1917, a school board is given authority to permit the use of a schoolhouse for parochial school during vacations, but not during any other period of the year. A reasonable rental must be charged for such use. (Hilton, May, 1920.)

A school house may not be used for religious instruction on school days, whether before or after the usual time for closing school. (Hilton, November, 1921.)

(4) Provide for the free transportation to and from school, at the expense of the districts of all pupils residing more than one-half mile from the schoolhouse, for the whole or such part of the school year as they may deem expedient, and subject to such rules and regulations as they may adopt; and shall require from every person employed for that purpose a reasonable bond for the faithful discharge of his duties, as prescribed by the board.

Although a school board is empowered to provide for the free transportation to and from school at the expense of the district of all pupils residing more than one-half mile from the schoolhouse, for the whole or such part of the school year as they may deem expedient, such board is not compelled to do so. (Simpson, Sept. 21, 1910.)

Permission given to school boards to provide free transportation for children has only to do with transportation to the public schools, and such board cannot furnish transportation to pupils attending parochial schools. (Simpson, Nov. 16, 1910.)

A school board of a common school district not containing ten townships or more has no right to pay board and lodging for children attending school in that district. (Smith, Jan. 6, 1915.)

A pupil residing without a consolidated district but whose father owns land within it is entitled to transportation if he presents himself within the district on the usual course of the bus. (Smith, January 12, 1918.)

School board has no authority to provide transportation facilities for children attending a private school. (Hilton, October, 1919.)

A district that has employed a bonded driver for a transportation bus is not liable in damages for injuries sustained by pupils while being transported to or from the school house. (Hilton, Nov. 1919.)

(5) Make rules and regulations respecting the protection of the property of the district, and prescribe penalties for a breach thereof, to be recovered for the use of the district as penalties in other cases, before a justice of the peace, and change or appeal such rules. (2816)

76. School board; member of school board association—The school board of any school district of this state, by a two-thirds vote, may become a member of the Minnesota School Board Association and by similar vote appoint one of its members to attend the annual meeting thereof, and the amount of the annual membership dues in such association and the actual and necessary expense incurred in attending such meeting shall be paid as other expenses of the district are paid. (Chapter 98, Laws 1925)

77. Special duties of board in common school districts—The school board of every common school district shall submit to the annual school meeting an estimate of the expenses of the district for the coming year for five-months school, and for such further time as it may be decided by the meeting to hold school, and for such other specified purposes as the board may deem proper, and, if such meeting shall fail to vote a sufficient tax to maintain a school for such time, the board shall levy such tax; but no such school board shall expend any money or incur any liability for any purpose beyond the sum appropriated by vote of the district for such purpose, or levied by the board pursuant to this section, or on hand and applicable thereto. When the district has decided by vote at any legal meeting to open more than one school, the board shall provide for opening such school or schools, and assign to each a proper number of pupils. (2825)

78. School Board; authority to issue warrants on funds in closed banks—That any school district which now has, or may hereafter have, any moneys on deposit in any bank at the time such bank is closed, or here-

after closes, for the purpose of liquidation, may issue its general warrants in payment of any obligation and in the amount that the moneys so on deposit could have been applied thereto if available, notwithstanding there may not at the time of the issuance thereof be any funds on hand for the payment thereof, or any taxes previously levied and then in process of collection, the proceeds of which will be available for the payment of such warrants. Such warrants, when issued, may be presented to the treasurer and marked "Not paid for lack of funds" and shall thereafter draw interest at the rate of six per cent until paid. (Chapter 74, Laws 1925)

79. **School board; power to admit pupils from other district**—The child or children of any person in this state not resident within the limits of any incorporated city or village of this state, and residing more than two miles by the nearest traveled road from the schoolhouse in the district where such child or children reside, are hereby authorized to attend school at a school or schoolhouse in an adjoining district nearer to such residence than the said schoolhouse in the said district where such child or children reside, upon such reasonable terms as shall be fixed by the school board of such adjoining district, upon application of the parents or guardian of such child or children. In case such parent or guardian is not satisfied or cannot comply with the terms and conditions fixed and determined by the school board of such adjoining district, and shall apply to the State Superintendent of Public Instruction for that purpose, the State Superintendent of Public Instruction shall give such notice of such application to the clerk of the school board of such adjoining district as shall be determined by such Superintendent of Public Instruction, and shall after such notice, decide such application and fix such terms and conditions for the attendance of such child or children in such adjoining district as shall be just and reasonable, and thereupon such child or children may attend such school in such adjoining district upon compliance with the terms fixed by such superintendent of public instruction, the same in other respects as if resident in the district where such schoolhouse is situated. Provided that nothing herein contained shall be construed as repealing, amending or modifying the provisions of section 1321, Revised Laws of 1905, as amended by chapter 445, of the General Laws of Minnesota, 1907. (2823)

80. **Public evening schools for adults**—The school board of any school district or unorganized territory may establish and maintain public evening schools as a branch of the public schools, and such evening schools when so maintained shall be available to all persons over sixteen years of age who from any cause, are unable to attend the full time school of such district; and such evening schools and the general conduct thereof shall be under the direction and control of the State Board of Education. (2827)

81. **Same; investigation by the State Board of Education**—The State Board of Education is hereby authorized and directed to make such investigation as may be necessary to advance the purposes of this act and to carry out the provisions thereof. (2828)

82. **Same; payment of salaries**—One-half the salaries of all teachers who teach in evening schools shall be paid from state funds or state and federal funds combined in so far as such funds are made available. Such payment shall be made upon verified statements of account presented to the State Commissioner of Education by the clerks of the respective school districts or by the county superintendent of schools. (2829)

83. **Authority to provide for instruction of certain pupils in other districts**—The board of any school district, however organized, may by unanimous vote provide for the instruction of any resident pupil in another school district when inadequate room, distance to school, unfavorable road conditions, or other facts or conditions make attendance in his own district unreasonably difficult or impractical, in which case such district shall pay to the district so attended the tuition agreed upon, or charged; provided,



however, that such pupil shall continue to be a pupil of the district of his residence in the apportionment of the current school fund and the payment of state aid. (Chapter 34, Laws 1927.)

84. **Authority to discontinue a school and provide for instruction of pupils in adjoining district**—The school board of any district, when it deems it advisable, may provide for the instruction of its pupils in an adjoining district, and in such case may discontinue the schools of its own district or of any grades or departments in said schools, and provide for the free transportation of the pupils of its own district to the school in an adjoining or nearby district. The teachers shall keep the registers separately for the pupils from such district discontinuing its schools, and shall return the registers and make separate records to the clerk of such district and to the county superintendent, of the number and names of pupils, with their attendance, and such district shall retain its organization and shall be entitled to public money, including the special state aid granted to ungraded elementary schools, under such rules as may be fixed by the commissioner of education, except that state apportionment for non-resident pupils enrolled in the high school department shall go to the districts in which the high school is located. Such aid shall be paid from appropriation made for common schools. (2822)

The provisions for transportation to, and education in an adjoining district are obligatory on the board if the home school is discontinued. (Hilton, Feb. 11, 1919.)

A school board may not legally pay tuition in an adjoining district at the same time maintaining school in its own district. (Hilton, September, 1921.)

85. **Authority to pay high school tuition in adjoining state**—Any person under twenty-one years of age residing in any school district of this state not maintaining a high school, who has successfully completed the eighth grade, may with the consent of a majority of the school board of his residence district, expressed at a meeting thereof, attend any high school in an adjoining state willing to admit him, which high school is nearer to his place of residence than any duly established high school in Minnesota, the distances being measured by the usual traveled routes.

Any tuition charged by the district so attended shall be paid by the school district in which such person resides; provided, however, that such tuition shall not be more than such district charges non-resident pupils residing in such state if any such tuition is charged, and if no tuition is charged for non-resident pupils of said state, then such tuition shall not exceed the sum of ten dollars (\$10.00) per month. Provided further, that the person so attending high school in another state shall continue to be treated as a pupil of the district of his residence in apportionment of the current school fund and the payment of state aid. (Chapter 135, Laws 1927.)

86. **Sites for agricultural schools**—That the board of education or other governing body of any school district in the State of Minnesota, in which instruction in agriculture is afforded, be and hereby is authorized and empowered to purchase or otherwise acquire by condemnation proceedings as provided for acquiring schoolhouse sites in the name and in behalf of such school district, a suitable tract of land either within or without the limits of such school district, to be used for the purpose of instruction, experimentation and demonstration in agriculture.

The provisions of this act shall apply as well to districts organized under special acts as under the general laws, notwithstanding any provisions or restrictions in the laws under which the same are organized. (2820-2821)

A school district may acquire land by condemnation proceedings under the exercise of the right of eminent domain for school purposes. (124 M. 272.)

The board of education of an independent district has power to purchase land at fair prices for the purposes of agricultural instruction, without the vote or sanction of the electors. (Smith, June 12, 1913.)

87. **Power of consolidated districts to acquire sites**—The school board of any consolidated school district which does not contain within its limits an incorporated city or village may purchase or acquire by condemnation proceedings, as provided by law for acquiring schoolhouse sites, in the name and on behalf of such school district, a suitable tract of land within the limits of said district to be used for the purpose of erecting buildings thereon for use for dwelling purposes by teachers or other employees of said district, and may erect such buildings on said tract or on any other real estate owned by such district.

The school board of any such district may also sell, lease or otherwise dispose of such property so built or acquired when deemed advisable and for the best interests of the districts. (Chapter 358, Laws 1915.)

88. **School board members made peace officers**—Members of school boards in common or consolidated school districts shall be peace officers, and may suppress disorder and make arrests for any disorderly conduct, or breach of peace, in any schoolhouse or on any school grounds, in their respective districts, and may command the assistance of all persons. (2831)

89. **Contracts; advertisement for bids**—No contract for work or labor, or for the purchase of furniture, fixtures, or other property, or for the construction or repair of schoolhouses, the estimated cost or value of which shall exceed five hundred dollars (\$500.00), shall be made by the school board of any common or independent school district without first advertising for bids or proposals in some newspaper of the county by two (2) weeks' published notice in the city or village located nearest to the school district in which such contracts are proposed to be let, or some newspaper published in the county seat in such county. Such notice shall state the time and place of awarding the contract, and contain a brief description of the work to be performed, materials to be furnished or building to be constructed or repaired. (2846)

It is not necessary to advertise for bids before hiring bus drivers. (Hilton, July, 1919.)

Note—See also sections 8245-8249, G. S. 1913.

90. **Contracts; letting contracts**—Every such contract shall be awarded to the lowest responsible bidder, shall be duly executed in writing, and the person to whom the same is awarded shall give a sufficient bond to the board for its faithful performance, and otherwise conditioned as required by sections 4535, 4536, 4537 and 4538, Revised Laws, 1905 as amended. If no satisfactory bid is received, the board may re-advertise. Every contract made without compliance with the provisions of this act shall be void; provided, that in case of the destruction of buildings or injury thereto, where the public interests would suffer by delay, contracts for repairs may be made without advertising for bids. (2847)

A contract for a building in excess of the amount authorized by the voters for that purpose is null and void. (Hilton, May, 1921.)

91. **Use of basement rooms for graded school purposes prohibited**—It shall be unlawful for any school board of any public school in any city having a population of twenty thousand or more inhabitants to maintain or allow any basement room to be used for grade school purposes, except rooms used exclusively for the purpose of teaching domestic science, manual training or physical culture; provided, however, that two basement rooms, during the year 1910, and one basement room, during the years 1911-1912, may be used in any one building. (3008)

92. **Same; basement room defined**—For the purpose of this act a basement room shall mean any room the floor of which is below the surface of the surrounding ground on all sides of said room. (3009)

School board not authorized to let contracts for work on a cost plus basis. (Hilton, June, 1919.)

93. **Municipalities to keep records of cost of public works—Notices of costs shall be printed**—Whenever a county, city, village, borough, school district or other political subdivision of the State of Minnesota, or any public agency of such municipality or political subdivision, shall determine that any public work or construction is necessary to be done either by contract or by day labor, or otherwise, an estimate of the cost thereof shall be made, and if such estimate shall exceed the sum of fifteen hundred dollars (\$1,500) the total amount of such estimate shall be published in the official newspaper of such county, municipality, or political subdivision. If there be no such official paper, the same shall be published in a legal newspaper of the county in which the work is to be done. If the estimated cost of such public work or construction exceeds the sum of fifteen hundred dollars (\$1,500), such municipality, political subdivision, or public agency shall keep and preserve an accurate record and account of such work and construction, and of the cost thereof, whether it be done by contract or by day labor or otherwise. Provided, that where such estimate is published as part of the official proceeding of the governing body of such municipality, public agency or political subdivision, no further publication shall be required under the provisions hereof. (Section 1, chapter 274, Laws 1921.)

94. **Same; what shall be shown in account**—The said account shall show in accurately tabulated form, under appropriate heads, the totals of all classes, kinds and descriptions of work performed and of materials entering into such public work or construction, and the cost to such municipality, political subdivision or public agency of each, including the cost of all materials, supplies and services furnished or paid for by said municipality, political subdivision or public agency; and the cost of all labor, when said work or construction is done by day labor, when such public work or construction is done by contract the prices paid to the contractor for, and the amounts paid to him for each class, kind or description of work performed, and materials furnished; and in all cases, the cost of all overhead, the cost of engineering, and all other expenses, involved in the total cost of such public work or construction, which total shall be tabulated and distinctly shown. (Section 2, chapter 274, Laws 1921.)

95. **Same; total costs shall be published**—The total cost of such public work or construction, upon completion thereof, shall be published in a legal newspaper in the county, city, town, borough or school district in which said work is done, if there be such newspaper published therein. If not, then in some legal newspaper published at the county seat of the county in which said work or construction is performed. (Section 3, chapter 274, Laws 1921.)

It is obligatory upon the board to keep an accurate account of payments made to the contractor and the purposes for which made, and upon the completion of the building to publish the total cost. (Hilton, October, 1921.)

96. **Same; records to be open to public—Certified copies**—The records and accounts hereinabove required to be made and kept, shall be open to inspection by the public at all reasonable times. Certified copies thereof shall be furnished to any citizen of this state on demand, on payment of the legal fee for making and certifying the same. (Section 4, chapter 274, Laws 1921.)

97. **Work or supplies for schools furnished by members of board in certain cases and not to exceed \$25 per annum**—Members of any school board in any common school district in this state employing not more than three (3) teachers are hereby authorized and permitted to contract with, do work for, and furnish supplies to such districts when authority therefor is given by the full school board. Provided, that the bills for such claims shall not exceed twenty-five (\$25.00) dollars per annum and that they must be allowed at a board meeting by the unanimous vote of the entire school board. All such bills shall be duly itemized and a full and complete itemized report shall be made at the annual school meeting. (Chapter 306, Laws 1917.)



98. **Special duties of board in independent districts**—In addition to the duties hereinbefore imposed, the school board of each independent school district shall:

1. Make, and, when deemed advisable, change or repeal, rules relating to the organization and management of such board and the duties of its officers.

2. Provide by levy of tax necessary funds for the conduct of schools, the payment of indebtedness, and all proper expenses of the district. (2826)

In an independent district, the board, and not the electors, should determine the length of school to be held; under sec. 1325, R. L. 1905. (Young, p. 181.)

99. **Additional powers of boards in independent districts**—The school board of any independent district may also:

1. Establish and maintain public evening schools as a branch of the public schools, and such evening schools, when so maintained, shall afford a continuous session of not less than two hours on each school day, shall be available to all persons over ten years of age who from any cause are unable to attend the public day schools, and attendance at such evening schools shall entitle such district maintaining the same to its pro rata apportionment of state school funds for all pupils not over twenty-one years of age, the same as if such pupils attended the day schools of such district. Except as herein provided, such evening schools shall be under the same regulations as day schools of like grade.

2. Establish and maintain one or more kindergartens for the instruction of children above four and under six years of age.

3. Receive, for the benefit of the district, bequests, donations, or gifts for any proper purpose, and apply the same to the purpose designated.

4. Remove for proper cause any member or officer of the board, and fill the vacancy; but such removal must be by a concurrent vote of at least four members, at a meeting of whose time, place, and object he has been duly notified, with the reasons of such proposed removal, and after an opportunity to be heard in his own defense. (2824)

A persistent refusal on the part of a member of the school board of an independent district to perform the duties of his office would constitute sufficient ground for removal. (Hilton, July, 1921.)

It is within the power of the board of education of an independent district to employ a visiting nurse to assist and inspect the children as to health and to visit the absent in their homes and give treatment and directions as shall be found necessary, provided such action reasonably promotes the educational advancement of the pupils in the district; and her compensation rests in the discretion of the board. (Smith, January, 1913.)

The function of such visiting nurse, the work she is to perform, and her compensation, rests largely in the discretion of the board; and such discretion rests on the promotion of the educational advancement of the pupils of the district. Such nurse should confine her activities to the examination of school children as to health conditions and to the making of reports thereon in such a way as to best bring about a change of unhealthful conditions and by way of suggestions as to remedies for situations found. It is hardly within her province to give treatment. The performance of her duties should be confined to matters that have to do with the health of the children from the standpoint of the public welfare, and should not include anything that more than incidentally affects the welfare of private individuals. (Smith, January 13, 1913.)

100. **Publication of proceedings of boards of independent school districts**—The school board of each independent school district in this state shall cause to be published once, in some newspaper published in such school district, or if there be no newspaper so published therein, then in some newspaper published in the county in which such school district is located, the official proceedings of such board, and such publication shall be made as soon as may be, and not later than thirty days after the meeting at which such proceedings were had. Such publication shall be let annually by contract to the lowest bidder, at the first regular meeting

of said board after the annual election in such district, provided that not more than fifty cents per folio shall be paid for such publication. (2797)

Publication of proceedings of the school board in independent districts should be made after each board meeting whether regular or special. (Smith, Nov. 17, 1916.)

101. **School board: Power to control school activities**—In addition to the powers now or hereafter conferred by law upon the school board of any school district in this state, such school board may and upon vote of the district shall take charge of and control all school and quasi school activities of the teachers and children of the public schools in that district held in the school buildings or school grounds or under the supervision or direction of the school board and to that end adopt rules and regulations for the conduct of athletic, oratorical, musical, dramatic and other contests and entertainments in which the schools of such districts or any class or pupils therein may participate. All moneys received on account of such entertainments and contests shall be turned over to the school district treasurer who shall keep the same in a separate fund to be known as the "school auxiliary fund," to be disbursed for expenses connected with such entertainments or contests, or otherwise by the school board upon properly allowed itemized claims. Any donations to the school district for specific objects and purposes and other than for the primary purposes of the district, shall be placed in the fund hereinbefore referred to and in like manner disbursed; the request of the donor or donors thereof being complied with in regard to the purpose of such disbursements, if the school board shall consider that the interest of the district will be promoted thereby. (2817)

102. **Same**—No such school or quasi school entertainment or contest in any district in which the school board shall act under the provisions of this chapter shall be participated in by the teachers or pupils in the public schools of such district, nor shall the school name or any allied name be used in connection therewith, except by consent and direction of the school board. (2818)

103. **Junior college—How established**—The school board of any independent or special school district, when authorized by a two-thirds vote of the electors voting thereon so to do, provided the action of the electors shall have been at a meeting preceded by notice stating that such proposition is to be there acted upon may establish and maintain a department of junior college work, to consist of not more than two years' work beyond a four-year-high school course. (Section 1, chapter 103, Laws 1925, as amended by section 1, chapter 44, Laws 1927.)

Where a junior college has been heretofore established and is now being maintained in any independent or special school district the same is hereby legalized and made effective as fully as if established under and pursuant to the provisions hereof. (Section 2, chapter 103, Laws 1925.)

The state department of education shall have the same supervision, control and powers over a junior college when established hereunder as it now has over other departments of the public school system. (Section 3, chapter 103, Laws 1925.)

The school board on or before August 15th in each year, shall determine and fix the rate of tuition, if any, required to be paid by pupils attending such department, which tuition shall be paid by all pupils attending whether residents or not of the district maintaining such department. (Section 2, chapter 44, Laws 1927.)

104. **Same; in cities of 50,000 inhabitants**—In any school district in this state, whose limits are co-extensive with the limits of any city of 50,000 inhabitants or more, the school board may by majority vote of all its members, or when authorized so to do by a majority vote of the electors of any such school district voting on the proposition, establish, maintain or dis-

continue a junior college, to consist of not more than two years of college work beyond a four-year high school course, and may charge such tuition fees for instruction in such junior college, as shall be fixed by any such school board.

The State Department of Education shall have the same supervision, control and powers over any such junior college, when established hereunder, as it now has over other departments of the public school system of this state.

Any such school board shall have authority to make use of any existing school buildings, or school equipment, or may provide any necessary building or buildings or equipment, for the establishment and maintenance of any such junior college. (Chapter 268, Laws 1927.)

105. Duties of superintendent in independent districts—The superintendent in independent or special districts shall visit the schools of the district, and exercise a general supervision over them, and report their condition to the board, with proper recommendations, when he deems it advisable, or when requested by the board. He shall superintend the grading of the schools and examinations for promotion, and shall perform such other duties as the board shall prescribe. He shall make, either directly to the state superintendent, or through county superintendent, such reports as shall be required. (2841)

106. Compensation of officers in independent districts—The clerk, treasurer, and superintendent of independent districts shall receive such compensation as may be fixed by the board. No officer or member of any school board shall receive pay as such, except as provided in this chapter. (2844)

Members of a school board are entitled to actual and necessary expenses incurred in the performance of official business for the district, but no per diem can be paid. (Hilton, May, 1922.)

107. Powers, duties and compensation of chairman in common districts—The chairman, when present, shall preside at all meetings of the board and of the district, except when a moderator has been chosen; shall countersign all orders upon the treasurer for claims allowed by the board; shall represent the district in all actions; and shall perform all the duties usually incumbent on such officer.

In case of absence, inability or refusal of the clerk to draw orders for the payment of money authorized by a vote of the majority of the board to be paid, the orders may be drawn by the chairman, and paid by the treasurer, a statement thereof, with a copy of such orders, being delivered to the clerk by the treasurer, or the office of the clerk may be declared vacant by the chairman and treasurer, and filled by appointment.

The chairman may receive as compensation such an amount as may be determined at the regular school meeting of the district, but such compensation shall not exceed six dollars in any one year. (2840)

108. Duties of clerk—The clerk shall keep in books provided for that purpose a record of all meetings of the district and the board. He shall, within three days after the meeting, notify all persons elected upon any school board or as officers of any district of their election, and, on or before August 10 in each year, make and transmit to the county superintendent a certified report, showing:

1. The condition and value of school property.
2. The receipts and disbursements in detail, and such other financial matters as may be called for by the state superintendent.
3. The annual arrangement of terms of schools, and the grading, if any thereof.
4. The names and postoffice addresses of all trustees and other officers.



5. Such other items of information as may be called for by the state superintendent.

He shall enter in his record book copies of all his reports and of the teachers' term reports, as they appear in the registers, and of the proceedings of any meeting as furnished him by the clerk pro tem., and shall keep an itemized account of all the expenses of the district; and in common districts he shall report to the county superintendent the time of commencement of each term at least two weeks in advance. He shall furnish to the county auditor or auditors of the proper county or counties, on or before October 10 of each year, an attested copy of his record, showing the amount of money voted by the district or the board for school purposes; shall draw and sign all orders upon the treasurer for the payment of money for bills allowed by the board for salaries of officers or for teachers' wages, to be countersigned by the chairman. Such orders shall state the consideration, payee, and fund, and the clerk shall take a receipt therefor. Teachers' wages shall have preference in the order in which they become due, and no money applicable for teachers' wages from the current school fund shall be used for any other purpose, nor shall teachers' wages be paid from any fund except that raised or apportioned for that purpose. (2832)

A school district clerk may not be employed as janitor and receive compensation therefor. (Smith, October 17, 1917.)

The issuance of an order by the clerk of a district to pay the wages of a teacher known by him not to have been licensed to teach, is an unlawful diversion of the funds of the district, and subjects him to the penalty provided by law. (81 M. 333)

The clerk should draw orders for payment of teachers' wages as due, without requiring a bill therefor to be first allowed by the board. (126 M. 367.)

School district warrants (orders) can be issued only where there are funds in the district treasury available for the payment of the same, or in anticipation of the collection of taxes which, when collected, will be available for such purpose. (Hilton, December, 1919.)

109. Compensation of clerk in common districts—The clerk of each common district shall be paid at the rate of two per cent of the cash disbursements for the year, upon making his annual report to the superintendent as required by law accurately and in proper time; such compensation shall not exceed six dollars in any one year, unless a greater compensation has been voted at a meeting of the district upon a notice stating that action would be had at such meeting respecting such increase of compensation; provided that in no case shall the compensation of the clerk as herein provided exceed fifty dollars (\$50.00) for any one year. Such payment shall be made by the treasurer upon a certificate of the superintendent that such clerk is entitled thereto. (2842)

The fixing the compensation of treasurer at one annual meeting has no effect upon his salary for a subsequent year. The treasurer is not entitled as a matter of right to 2 per cent of moneys handled by him during any year.

110. Duties of treasurer—The treasurer shall receive and be responsible for all moneys of the district, and shall disburse the same on orders signed by the clerk and countersigned by the chairman, or other vouchers authorized by law. Each order shall state the fund on which it is drawn, the name of the payee, and the nature of the claim for which such order is issued. He shall keep an account of each fund, and of all receipts and disbursements, showing the source of such receipts and nature and purpose of such disbursements, and within three days preceding the annual meeting shall file with the clerk a detailed financial statement of the district, showing all receipts and disbursements and the nature of the same, the moneys on hand and the purposes to which the same are applicable, the credits of the districts, and its outstanding liabilities, and the nature thereof. Such report, together with his vouchers, shall be examined by the board, and, if found correct, approved by resolution, entered in the records. If incomplete or inaccurate a further or amended report may be required by the board. Such report, when complete, shall be laid before

the annual meeting, to be in like manner approved. He shall make such further reports as may from time to time be called for by the board, and shall perform all duties usually incumbent on such officers.

Every order drawn for the payment of teachers' wages, and for any other lawful purpose, after having been presented to the treasurer for payment, and not paid for want of funds, shall be endorsed by the treasurer by putting on the back thereof the words, "Not paid for want of funds," giving the date of indorsement and signed by the treasurer. A record of such presentment, non-payment and indorsement, shall be made by the treasurer. Every such order shall bear interest, at the rate of 6 per cent per annum from the date of presentment, until the treasurer serves a written notice upon the payee or his assignee, personally, or by mail, that he is prepared to pay such order, such notice may be directed to the payee or his assignee at the address given in writing by such payee or assignee to such treasurer, at any time prior to the service of such notice; no order shall draw any interest if such address is not given when the same is unknown to the treasurer. (2833)

When the treasurer has lost district funds by burglary, without his own fault, he and his bondsmen are liable for the loss; and a vote of the district to discharge him from the obligation is of no effect. (44 M. 427.)

The treasurer of a district is not required to allow certificates of deposits to remain on deposit in the bank which issued them; but he may convert them into money if he desires. (98 M. 535.)

The treasurer who mingles school funds with his own, but who is able and willing at all times to pay all legal orders of the district, and accounts for all money received during his term at the end of his term, is not liable after such accounting and after the end of his term. (98 M. 535.)

"Has the treasurer authority to recognize by payment an order signed by the clerk only?" It will be observed that it is only when attested by the director that the treasurer is authorized to pay. Paragraph 107 of this compilation provides for the payment of orders signed by the director alone in case of the absence, inability or refusal of the clerk to draw orders. (Hahn, p. 509.)

The law implies that the books and moneys shall be turned over to the newly elected treasurer at once, when he shall have qualified, and refusal on the part of the old incumbent to thus comply with the law would subject him to prosecution. It is embezzlement for a school district treasurer to refuse to account to his successor in office and withhold from him the moneys of the district. (Childs, June 7, 1893.)

A person who executes any of the functions of a public office without having executed and duly filed the required security is guilty of a misdemeanor, and in addition to the punishment prescribed therefor, he forfeits his right to the office. (Penal Code.)

A failure on the part of a treasurer-elect to execute a bond within the required time makes it the duty of the director and clerk to appoint another treasurer. (Childs, July 8, 1892.)

There is no provision of law for a deputy district treasurer. Removal of the treasurer from the district creates a vacancy in the office which should be filled by appointment. (Donahower, p. 137.)

Under section 1327, R. L., the treasurer of a district is authorized to pay out money only upon orders signed by the clerk and countersigned by the chairman; and if he willfully violates this provision, he may be punished under section 4796, R. L., or called to an accounting in a civil action. (Young, p. 203.)

Under section 1327, R. L., the treasurer must submit a detailed statement of the finances of the district to the board three days before the annual meeting; and such statement should be examined by the board and, when complete, should be laid before the annual meeting for approval. If the board is not satisfied with such statement, or has reason to believe it is not correct, it may bring suit upon the bond of the treasurer and try the whole matter in court. (Young, p. 387.)

The law does not provide that school orders presented to the district treasurer and indorsed "Not paid for want of funds," shall be paid by the treasurer in the order in which they have been refused, when there are available funds in the treasury for the payment of such orders, but it is suggested that that course of procedure should be followed, and the orders redeemed in the order in which they have been presented and refused, unless there is some good reason for contrary action. (Simpson, May 19, 1909.)

A school district treasurer should not pay out moneys from the school funds on orders which do not bear the signature of the chairman. (Hilton, June, 1921.)

A school district treasurer cannot enter into a contract with the district for the transportation of children to and from school, and if he does so he becomes liable for committing a gross misdemeanor, under section 5032, R. L. 1905. (Simpson, September 15, 1909.)

A retiring treasurer should deliver canceled warrants together with other official records to his successor in office. (Smith, August 29, 1917.)

Note: Section 3281, G. S. 1923, authorizing the public examiner to examine school district accounts on a petition signed by ten (10) freeholders of the district.

**111. Bond of treasurer**—Every school district treasurer shall give bond to the state in a sum equal to twice the amount of money that will probably be in his hands at any time during any one year of his term, the school board to fix the specific amount of said bond, and said bond to be approved by the board and filed with the clerk, conditioned for the faithful discharge of his official duties. Provided, however, that if said bond so furnished by the treasurer be that of a surety company authorized to do business in Minnesota then the amount of such bond shall be equal to the amount of money that will probably be in his hands at any time during any one year of his term, the specific amount of such bond to be fixed by the board. The school board may at any time by a majority vote require the treasurer to give a new or an additional bond, and upon his failure to furnish same within a reasonable time after notice, the board shall declare the office of treasurer vacant. Any bond hereunder, before approval by the school board, shall be approved as to its form by the public examiner, county attorney or an attorney designated by the school board. (2834, as amended by chapter 69, Laws 1925.)

If a school district treasurer fails within a reasonable time to furnish an acceptable bond the office of treasurer may be declared vacant and a successor appointed. (Hilton, September, 1921.)

The act of one director and clerk of a district in approving the treasurer's bond is one requiring the exercise of judgement and discretion, and is therefore a judicial act. (72 M. 37.)

A school board may authorize the payment of the premium on a school treasurer's bond out of school funds, pursuant to provisions of Section 8238 G. S. 1913. (Hilton, July, 1921.)

**112. Compensation of treasurer in common district**—The treasurer of such district may receive as compensation such an amount as shall be determined at the regular school meeting of the district, not exceeding, however, twenty-five dollars per annum, which shall be allowed only after his annual report shall have been approved by the board. (2843)

The treasurer of a school district cannot receive money for his services unless the same be voted to him at the annual meeting after his report has been audited and approved by the board; and then it cannot exceed \$25.00 per year. (Smith, July 30, 1914.)

Action at annual meeting fixing compensation of treasurer for the preceding year has no effect upon his compensation for any subsequent year. (Smith, July 30, 1914.)

The treasurer is not entitled as a matter of right, to 2 per cent of all moneys handled by him during the year. (Smith, July 30, 1914.)

Two things must concur in order that a treasurer may receive his compensation, viz.: approval of his annual report; the vote of the annual school meeting fixing his compensation. (Simpson, July 20, 1910.)

**113. Appointment of clerk in special districts**—The board of education in any special school district in the State of Minnesota at its annual meeting for organization, may, at its option, appoint as its clerk or secretary a person not a member of such board, and may make provision for his compensation in accordance with existing law. (2810)

**114. Opinion of attorney general**—If any difference of opinion arises between school officers, or any doubt as to the proper construction of any part of this chapter, or as to their powers or duties, the state superintendent at the request of any such officer, shall submit such question to the attorney general, who shall give his written opinion thereon to such superintendent and such opinion shall be binding until annulled or overruled by a court. (2848)

**115. Authority to select depository**—The officers of the several common and independent school districts in this state may in their discretion, select and designate as a depository or depositories for school district moneys, any



national or state bank, or banks, for a period not exceeding three years on the execution by such bank or banks of a sufficient bond to the school district in double the sum deposited, except in cases where the bond furnished is that of a surety company authorized to do business in the state of Minnesota, and in such cases the amount of bond shall be equal to the estimated sum to be deposited, to be approved by the board and filed in the office of the county auditor of the county wherein said school district may be situated, and thereupon may require the treasurer to deposit all or any part of the school district's money in such bank or banks, provided that such designation may be made in an amount not exceeding \$1,500 in common school districts and not exceeding \$3,000 in independent school or consolidated districts without the execution of any bond. Such designation shall be in writing and shall set forth all the terms and conditions upon which the deposits are made, be signed by the chairman and clerk or president and clerk as the case may be, and filed with the clerk. That thereupon such bank or banks shall become a legal depository or depositories for school district moneys, and thereafter the school district treasurer shall deposit such school district moneys therein as he shall be required from time to time to deposit by such school district officers. (2836—as amended by chapter 118, Laws 1927.)

A school board may designate more than one bank as a depository. (Smith, Feb. 11, 1916.)

**116. Treasurer to be exempt from liability**—The school district treasurer and the sureties on his bond shall be exempt from liability to the school district by reason of the loss of any funds of such school district deposited in any such bank or banks from the failure, bankruptcy or other acts of such bank or banks to the extent and amount of such funds in such bank or banks at the time of such failure or bankruptcy. (2837)

If a school board has properly designated a bank as a depository, a proper bond having been furnished and accepted, it becomes the duty of the treasurer to deposit the funds of the district in such bank, and, failing to do so, he is personally responsible for such funds, and if they are lost he and his bondsmen can be held therefor. Action in mandamus will lie to compel him to deposit the funds in the designated depository. (Simpson, August 19, 1909.)

**117. Interest computed monthly**—All interest on moneys deposited, as hereinbefore provided, shall be computed on monthly balances, and become the property of said school district. (2838)

**118. Officers not allowed additional compensation**—No additional compensation or fees shall be paid any of the school district officers by reason of any of the provisions of this act. (2839)

## SCHOOL BOARDS IN UNORGANIZED TERRITORY.

**119. School boards in unorganized territory**—The power of providing for the education of children of school age residing in any unorganized territory within the State of Minnesota shall be vested in the county board of education for unorganized territory of the county where such unorganized territory is situated. (2850)

**120. Same; county board, how constituted**—The chairman of the board of county commissioners, the county superintendent of schools, and the county treasurer shall, ex-officio, compose the county board of education for unorganized territory in each county within the state. (2851)

**121. Same; organization of board**—The chairman of the county board of commissioners shall be the chairman of the county board of education; the county treasurer shall be treasurer of said board; the county superintendent of schools shall be the clerk of said board of education. The county board of education may also employ such clerical and stenographic and supervisory help as may be needed who shall perform such other services as the board may direct. (2852)

122. **Same; compensation of board**—For their services performed under the provisions of this act, the chairman of the said board of education shall be paid three dollars per day for the time actually employed by him as such chairman and ten cents per mile for distance actually traveled by him in performance of his said duties, not exceeding the total sum of four hundred dollars in any one year, for such mileage and diem; the treasurer of said board shall be paid one per cent and the clerk one per cent of the cash disbursements for the year, but only after all reports required by law have been made in conformity thereto; provided, that this section shall not apply to counties having a population of more than 2,000,000. (2853)

123. **Same; meetings of board**—The county board of education for unorganized territory shall meet once each month at the county seat at a time to be fixed by the board, for the purpose of transacting the business of said board, consider petitions, reports from teachers, audit and pay bills, etc. The board may also hold special meetings as may be deemed necessary. (2854)

124. **Same; reports of clerk**—It shall be the duty of the county superintendent as clerk of the county board of education to make reports similar to those made by the clerk of organized districts.

Annually on the first Tuesday after the first Monday in August, the clerk of such board shall make a full and accurate statement of the receipts and disbursements of such board for the preceding school year, which shall contain a full and correct description of each item, from whom and on what account received, to whom paid and on what account expended, together with an accurate statement of the finances of said county board of education at the end of such year, including all debts and liabilities and the assets to discharge the same, and within thirty days thereafter the said county board of education shall cause the same to be published once in a legal newspaper published in the county; which paper, in counties having over one hundred thousand population, shall be a daily paper. (2855)

125. **Same; tax levy for schools**—The said board of education shall, annually, on the third Saturday of July, make a levy on all property situated in unorganized territory of the county for the purpose of providing schools, teachers, transportation of pupils, board of pupils, textbooks, apparatus, school supplies, etc., for the education of children, residing within such territory. This tax levy shall be known as the special unorganized school levy and it shall be so spread on the tax lists by the county auditor. (2856)

126. **Same; duty of board to furnish school facilities**—It shall be the duty of the said board to furnish school facilities to every child of school age residing in any part of said unorganized territory, either by building school houses, leasing school room, transporting said children to the nearest school, boarding said children within convenient distance from a school at the expense of said board, or otherwise, and to provide necessary supplies, text and library books. (2857)

127. **Same; general powers and duties of board**—When not otherwise provided in this act the powers and duties of said board of education of unorganized territory shall be the same as those of school boards and annual meetings of independent school districts. (2858)

128. **Same; organization of school district**—When, in the opinion of the said board, it shall appear that any territory enjoying the privileges of unorganized territory should be organized into a common or an independent school district, the said board shall notify the county board, which shall cause notice of hearing thereon to be given and otherwise proceed as provided by law for organization of common or independent school districts. (2859)

129. Same; organization of new counties—Whenever a new county or counties have been or may hereafter be created and organized out of territory embraced within the boundaries of one or more organized counties and in which there is unorganized school territory, acting under the provisions of this act and lying partly within the old and new counties, or wholly within the new county, the county boards of education of the old and new counties shall meet upon the written request of the county superintendent of either county at such time and place as shall be designated in said request, which said request shall be served upon each member of each county board of education of the counties affected at least five days before the time of such meeting and make a division of all the moneys, funds and credits belonging to such unorganized school territory as the same existed prior to the division of the county or counties, and in making such division, the said board shall take into consideration the indebtedness of said unorganized school territory and shall make such division as they deem just and equitable, and all such moneys, funds, credits and property shall be divided and apportioned to the respective unorganized territory in the old and in the new county in proportion to assessed valuation of taxable property in such unorganized territory, respectively, in such old and new county, at the last assessment thereof. (2860)

130. Same; procedure in division of funds—In cases provided by section 11 and in case the county boards of education of the old and new counties shall fail to meet pursuant to the notice provided in section 11 of this act, the county superintendents of the old and new county or counties and the state superintendent of public instruction, or his deputy, shall constitute a board of apportionment, and upon the written application of the county board of education of either county affected shall make a division of all the moneys, funds, credits and property as provided in section 11 of this act, which apportionment shall be in writing and verified by the state superintendent of public instruction, or such deputy, and by at least one of the county superintendents of the counties affected, and filed in the office of the secretary of state, and shall be final and conclusive. Within five days after the filing of said apportionment the secretary of state if apportionment is made as provided in this section, or the superintendent of schools of each county if such apportionment is made as provided by section 11 of this act, shall transmit to the treasurer of the counties affected by said apportionment a certified copy of such apportionment and application, if any. (2861)

131. Same; division of county—Duty of boards—The county boards of education and the county officials of the old and new counties shall forthwith after such division and apportionment proceed to fulfill and carry out the terms thereof, determined or herein provided. (2862)

132. Same; dissolution of school districts—Petition—Any common or independent school district in any county may be dissolved, annulled and discontinued by the county board of commissioners, and its schools shall be cared for in accordance with the laws governing unorganized territory. A petition requesting the taking of such action shall be presented to said county board of commissioners and shall contain a correct description of the territory included in said district, the number of persons residing therein, the total assessed valuation of all property within said district, and request that such district be dissolved, annulled and discontinued. Such petition shall be signed by a majority of the freeholders qualified to vote for school officers in said district and before being presented to the county board it shall be approved by the county superintendent of schools if such petition meets with his approval. Provided, however, that in case the majority of the freeholders in any common district are not citizens and not qualified to vote and in case the number of children of school age residing in the district becomes fewer than ten, said school district may be automatically dissolved by resolution of the county board and shall become a part of the unorganized territory of said county; and the assets and liabilities of such



district shall be assumed by the county board of education for unorganized territory in the same manner as now provided for by law in the dissolution of school districts. (2863, as amended by chapter 222, Laws 1925.)

133. Same; dissolution of school districts—Time for hearing—Upon the presentation of such petition approved as aforesaid, the county board shall designate a time for hearing the same and notice thereof shall be given in the manner provided by law for notice in the case of the formation of the school district. (2864)

134. Same; dissolution of school districts—Appeal—At such hearings the board shall act in a manner similar to the action provided by law for the formation of districts, and any person aggrieved may appeal in like manner. (2865)

135. Same; dissolution of school districts—Delivery of records—If said petition is granted by the county board, then said school district shall from that time cease to exist and all the territory thereof and the schools previously conducted by it shall then come under the jurisdiction of the county board of education of said county, and shall thereafter be managed by said county board of education in the same manner as if said district had never been organized. And it shall be the duty of the officers of said vacated school district to forthwith deliver to the county auditor of said county all of the books and records of said school district, and to the county treasurer all of the money and school funds in its possession, and said county treasurer shall forthwith credit all such moneys and school funds to the account of the county board of education of such county. The county treasurer shall hereafter credit to the account of said county board of education all moneys and school funds thereafter collected from any previous tax levy made by said school district, except such moneys and school funds as are derived from taxes levied for the purpose of paying the bonds or interest on the bonds of any such school district. (2865a)

136. Same; dissolution of school districts, outstanding obligations—All incurred and outstanding obligations of any district so discontinued and vacated shall be and remain a charge upon the property formerly within said district to the same effect as if said district had not been discontinued, and the county auditor shall each year levy against all of the taxable property within the limits of said former school district a sufficient levy, not to exceed the maximum provided by law, for the cancellation and liquidation of such outstanding indebtedness, such levy to be made year after year until said entire indebtedness is cancelled and extinguished. And the amount levied by the county board of education upon all taxable property in unorganized territory shall be levied upon the property within the limits of said former school district in addition to the amount so levied by said auditor and in the same proportion that is levied upon the taxable property in said county outside of organized school districts. (2866)

137. Same; assumption of bonded indebtedness—Whenever any organized school district has heretofore been dissolved and the territory thereof has become unorganized territory and subject to the laws governing unorganized territory and such district has outstanding and unpaid bonds duly issued at the time of its dissolution and the entire proceeds of such bond issue has been paid over to the treasurer of the county board of education, said bonds shall be a charge upon and an obligation of the unorganized territory of the county, including the territory of said dissolved district, and the county board of education is authorized to provide funds for the payment of the interest and principal thereof by a tax levy upon all taxable property of such unorganized territory in the manner and form as provided by law for levying taxes for general school purposes of such unorganized territory. (Chapter 21, Laws 1927.)

138. Same; authority to sell bonds—The board of education of any unorganized territory in the state is hereby authorized and fully empowered by unanimous vote of such board to issue and sell bonds of such unorganized territory for the purpose of providing school sites and school buildings, for paying any judgment lawfully rendered against them or for refunding outstanding bonds or floating indebtedness, in such amounts and at such periods as the board may decide; said bonds to be payable in such amounts and at such times, not exceeding twenty years, as the board may determine, with interest thereon not to exceed six per cent (6%) per annum, which bonds shall be signed by the chairman and the treasurer of said board and countersigned by the clerk thereof; provided that the total bonded indebtedness of such unorganized territory shall at no time exceed seven and one-half per cent (7½%) of its assessed valuation. Any bonds issued hereunder shall be sold conformably to the provisions of section 1856, General Statutes 1913. (2867)

139. Same; tax levy for bonds—Every county board of education for unorganized territory issuing bonds under the authority of this act is hereby required annually to levy taxes upon all the taxable property in such unorganized territory sufficient to pay the interest on such bonds and to provide a sinking fund for the payment of the principal of such bonds at maturity. (2868)

140. Same; repeals—All laws and parts of laws inconsistent with the provisions of this act are hereby repealed. The following laws and parts of laws are hereby expressly repealed, to-wit: Chapter 76, Laws 1907; chapter 309, Laws 1909; chapter 500, Laws 1909; chapter 103, Laws 1911; chapter 82, Laws 1913; chapter 255, Laws 1919; chapter 314, Laws 1919; sections 2776 to 2794, inclusive, General Statutes, 1913. (2869)

141. Same—This act shall not apply to any county or counties not having a county board of education as provided in this act. (2870)

#### DISTRICTS OF TEN OR MORE TOWNSHIPS.

142. Trustees—How elected—In all common school districts in Minnesota embracing or containing ten or more townships, the trustees and members of the school board shall be elected as follows: In all such districts existing at the date of the passage of this act, the trustees and members of the school board shall continue to hold their respective offices, as follows: The chairman until August 1 following the next biennial general state election; the treasurer until one year from such date, and the clerk until two years from such date. If said terms of office or either of them so existing at the date of the passage of this act shall expire prior to said dates, that is, shall expire prior to August 1 following the next biennial general state election, and one year from said date, and two years from said date, as above stated, then and in that event the expiration of such terms shall constitute a vacancy, and such vacancy shall be filled as provided by sections 1316 and 1317 of said Revised Laws of 1905, as amended hereby. At the first meeting of each newly created or organized district hereafter created or organized, containing ten or more townships the chairman shall be elected to hold office until August 1 following the next biennial general state election, the treasurer until one year from said date, and the clerk until two years from said date. At the first biennial general state election held after the passage of this act in common school districts embracing or containing ten or more townships, and at the first biennial general state election held after the organization of each new district embracing or containing ten or more townships, and in each biennial general state election thereafter, there shall be elected two members of said board, such members being elected to fill the offices expiring respectively August 1 after such election and one year from August

1 after such election, the term of office of one to commence August 1 in the year following his election, and that of the other August 1 in the second year following his election. The office to which each is so elected at the time of the commencement of the terms of each, with the length or term, shall be stated on the ballot. For the purpose of carrying into effect this act, and so as to enable the electors in each of such districts embracing or containing ten or more townships to elect officers at such biennial general state election, the general election laws of this state including the primary election law, shall, so far as possible, be applicable hereto, and the candidates for said offices shall file for nomination and be chosen and nominated and their names placed upon the ballot, under and pursuant to the provisions of said general election law and the primary election law in this state, and such general election law and primary election law shall be made applicable hereto and carried out by the officers and persons having the performance and enforcement thereof, except that a separate ballot box shall be used and voters need not register. The votes shall be returned and canvassed and the persons elected notified in the same manner as in the election of county officers. (2802)

143. Same; powers and duties as independent districts—The school board in a common district containing ten, or more, townships shall have and exercise all powers, and be subject to the same laws and regulations as school boards in independent districts. (2803)

144. Same; publication of proceedings—In all school districts embracing or containing ten or more townships, the school board shall publish in a legal newspaper in the district, or if there is no such newspaper published in the school district, in a legal newspaper published in the county, to be designated by said board annually, the proceedings of such board within thirty days after such proceedings are had. (2722, G. S. 1913)

145. Same; meaning of "proceedings"—The term "proceedings" as used in this act shall include a statement of all propositions submitted by motion or resolutions, or otherwise, to such board, including the number of votes for and against all reports made to such board, and its action thereon, and an abstract of all claims allowed, giving name of claimant and amount and general purpose of the claim. (2723, G. S. 1913)

146. Same; public examiner to make annual inspection—The state public examiner shall, at least once in each year, make examination of the books and records of all districts affected by this act, and the school district shall pay the costs and expenses of making such examination. (2724, G. S. 1913)

147. Same; compensation of officers—In all common school districts composed of ten or more townships each member of the school board in such districts shall receive as annual compensation for his services as a member of such board the amounts herein stated, to-wit:

Two hundred dollars (\$200) a year where such district contains thirty public schools; four hundred dollars (\$400) a year where such district contains thirty-one public schools but less than sixty-one; six hundred dollars (\$600) a year where such district contains sixty-one public schools but less than ninety-one; eight hundred dollars (\$800) a year where such district contains ninety-one public schools or more: provided, that in such common districts containing less than thirty public schools and in which is maintained a high school, the annual compensation of the members of the school board shall be fixed at the annual school meeting. (2719, G. S. 1913)

148. Same; compensation for expenses—In addition to their salaries the members of the school board in such school districts shall be paid their actual and necessary traveling expenses, incurred and paid by each of them in the conduct of his official duties, including the visitation of



schools. Such expenses shall be paid upon duly itemized and verified vouchers approved by the board and filed with the clerk and made a part of the official records of the school board; provided, that the traveling expenses incurred by the members of the school board in any such district in any year shall be limited to the following amounts, as hereinafter provided: One hundred and fifty dollars (\$150) where the number of schools in such district does not exceed thirty; three hundred dollars (\$300) where the number of schools does not exceed sixty; four hundred and fifty dollars (\$450) where the number of schools does not exceed ninety; and five hundred dollars (\$500) where the number of schools is in excess of ninety. Such salaries and expenses shall be paid monthly by the treasurer of such school district on the order of the clerk, countersigned by the chairman. (2720, G. S. 1913)

149. **Same; tax levy to be made**—A levy shall be made in such common school districts to pay the salaries and expenses of the members of the school board in the same manner as is now provided by law for making levy for the support of public schools in common school districts composed of ten or more townships. (2721, G. S. 1913)

150. **Same; districts with more than thirty schools—Election of trustees**—In each common school district containing ten or more townships and more than thirty schools upon the passage of this act, or hereafter coming into that class, each person heretofore elected a trustee thereof shall hold his office for the duration of the term for which he was elected and until the first Monday in January next following, unless sooner vacated according to law. Vacancies shall be filled by the remaining members of the school board by appointment until the first Monday in January following the next biennial election. If such remaining members fail to appoint within ten days after the vacancy occurs, such vacancy may be filled, after five days' notice to them, by mail, by appointment of the governor. At each biennial election there shall be elected successors of the board members whose terms end prior to the next biennial election, as well as members or officers to fill vacancies for unexpired terms; and the terms of members so elected shall commence on the expiration of the terms of their predecessors and except when elected to fill unexpired terms shall be for four years and until their successors are elected and qualified; provided, when any such term commences in January in an even numbered year it shall be for three years; provided further that in districts not having officers holding over as elected officers of common school districts containing ten or more townships, there shall be elected at the first biennial election a chairman and a treasurer to hold for two years and a clerk to hold for four years. All general provisions of law for the nomination and election of county officers shall apply to the nomination and election of school officers hereunder, and such school officers shall be nominated and elected without party designation. (Section 1, chapter 48, Laws 1925.)

151. **Same; annual and special meetings**—Annual and special meetings of such school districts shall be called and held in the manner and at the time provided by law for such meetings of common school districts containing ten or more townships, in the village or township having the largest school attendance during the preceding school year; provided, proposed bond issues and all other matters required or desired to be submitted to vote by ballot shall be so submitted at a general biennial election or at a special election held in each precinct, as hereinafter set forth. The office and meeting place of the board shall be in the same village or township; provided that the board may in their discretion hold special meetings in any other township when the business to be transacted relates exclusively to affairs of such townships and the convenient vicinity. Provided, further, the board may be authorized by the voters at the annual or any special meeting, generally or specifically, to designate the sites for school houses, provide for building or otherwise placing school houses thereon, or change

any such sites, but may in their discretion, or shall on petition of twenty-five voters of the district, filed with the clerk within ten days after their action on any such specific proposition submit their said action to the voters for approval at a special meeting to be held at a convenient point in the township or village where the site or school house exists or is proposed, and in such event the vote of a majority of those voting at this meeting shall be sufficient to ratify the action of the board—or, if the board so determines or if one hundred or more voters of the district so petition within ten days, the matter shall be in like manner submitted and disposed of at a special election and voted on in the precincts as in section 3 hereof provided. When any proposed bond issue or other matter is to be submitted at a general election, the board shall certify the fact to the county auditor, who shall cause all such matters to be so submitted to the voters of the district on a separate ballot, and further proceedings shall be taken in like manner to similar county-wide propositions. The result shall be certified by the auditor to the school board.

The proceedings of the board shall be published in accordance with chapter 496, Laws 1919, the letting of the contract therefore to be at their first meeting annually. Except that if the board determine that the best interests of the districts would be served thereby, the publication may be in two or more newspapers of the district, provided in such event the total cost of such publication shall not exceed seventy-five cents per folio of the matter published. (Section 2, chapter 48, Laws 1925.)

152. Same; may divide district into precincts—At least thirty days before first submitting any proposition to be voted upon by ballot, otherwise than at the general biennial election, the trustees of school board of any such school district shall, by resolution in writing, divide the district into precincts, for the purpose of voting upon bond issues and all other matters so required or desired to be submitted for vote by ballot; and may thereafter from time to time change the boundaries of such precincts, consolidate two or more or establish new ones, as the convenience of the voters shall require; provided, so far as practicable, the precinct boundaries shall follow the lines of general election precincts in the district, and no change of boundaries shall be made within thirty days prior to any election. Such resolution shall describe the precincts, giving the boundaries thereof, fix a polling place in each at some school building or other place deemed most convenient to the voters, and shall be filed in the office of the clerk of the district. A copy thereof shall be filed in the office of the county auditor, and like copies shall be posted at the polling places in each district affected, at least ten days before the next school election held thereafter. (Section 3, chapter 143, Laws 1923.)

153. Same; notices of special election—Notices of such special election shall be given by publication and by posting in each precinct substantially in the manner now provided by law for notices of special meetings of common school districts, but need not specifically designate the polling places otherwise designated, as hereinbefore provided, in each precinct. (Section 4, chapter 143, Laws 1923.)

154. Same; special election—Officers—At least ten days before any special election the school board shall by resolution filed with the clerk thereof appoint from the resident electors a moderator or judge of election and two clerks for each precinct. The clerk of said school board shall immediately notify in writing each person so appointed of his appointment, and such persons, if present at the hour set for opening of the polls, shall qualify, open the polls and conduct such elections substantially in the same manner as elections for county officers; provided, unless otherwise designated by the voters at any such election or at an annual school meeting, the school board may fix the hours for opening and closing the polls in any such precinct elections, but the polls shall in each case be open for at least one hour. If any of the appointed officers are absent or fail to act at the hour

set for opening the polls, the electors present may choose any elector then present to fill the vacancy, who shall qualify and act. Upon the closing of the polls the election officers acting in each precinct shall forthwith count the votes and certify the result thereof to the clerk of the district, placing the certificate, poll list, ballots and all other records of the election in an envelope, securely sealed, and shall mail or deliver the same forthwith to the clerk of the district. The ballots shall be separately enclosed and sealed, within the envelopes, shall be preserved for one year, and shall not be opened or examined except in case of a contest or by the order of a court of record. The school board shall canvass said votes and returns and declare and record the result thereof, and take such further proceedings as are required or authorized thereby. (Section 5, chapter 143, Laws 1923.)

155. Same—On petition of at least 10 per cent of the number of voters at the last preceding general election, the trustees shall within sixty days cause to be submitted at a general or special election, but not oftener than once in four years, the proposition: "Shall the number of trustees be increased to five?" If so required in the petition, there shall also be submitted at the same time the proposition: "Shall such change take effect at once?" If said first proposition carries, the trustees shall, within thirty days, by resolution filed with their clerk and with the county auditor, divide the district into three groups of precincts to be known and numbered as subdivisions, of as compact shape and as nearly equal population as may be, which may be changed from time to time, but not oftener than quadrennially. Each village shall be placed as an entirety in one subdivision, unless reasonable equality of population of subdivisions would thereby be prevented. The terms of the trustees last elected shall not be shortened, but each shall be treated as the member for the subdivision of his residence; or, if two or more reside in the same subdivision, they shall determine by lot or as hereinafter provided which shall be the subdivision trustee, and which shall be trustee or trustees at large. At the next ensuing primary and general elections, vacancies shall be filled, if any, and there shall be chosen trustees at large or for subdivisions to succeed those whose terms are about to expire, and also two additional trustees, at large or for subdivisions, so that there will be a trustee for each subdivision and two trustees at large. The designation of holdover trustees, as aforesaid, and the fixing of the terms of two or four years for the additional trustees first elected shall be such that thereafter one trustee at large and not over two subdivision trustees shall be elected at each biennial election, aside from filling vacancies; and, when necessary to this end, the additional trustees receiving the larger vote shall hold for the longer term. Provided, if the voters have determined that said change shall take effect at once, said two additional trustees first chosen shall be elected at a special election to be called and held within ninety days after the creation of said subdivisions, and the candidates shall be nominated under sections 371 to 374 inclusive, General Statutes 1913, and elected for terms ending on the first Monday in January following the next general election—or one ending then and one two years thereafter—so as to put in operation the plan aforesaid. In all cases the nomination and election of each trustee, whether at large or from a subdivision, shall be open to participation by all the voters of the district. Each subdivision trustee shall during his term reside in the subdivision for which he is elected. Upon a five member board's being duly constituted, the district shall be known as a "general school district," the offices of the chairman, clerk and treasurer, as such, shall become vacant, and the board shall choose at their first meeting annually from among their number a chairman, and from among or without their number, a clerk and a treasurer; and may also choose a business manager who may be the same person as the chairman, clerk or superintendent. The appointive officers shall have the functions and powers now or hereafter vested in such or like officers by law, and such others as may lawfully be delegated to them by the board—except that, unless elected as such, they shall not be members of the board. Each member of the board as such shall receive as compensation the sum of



five dollars (\$5.00) for each day's attendance at board or committee meetings, together with his actual traveling expenses, which may include not to exceed eight cents per mile for use of his own automobile in going to and from such meetings; and the appointive officers such compensation and expenses as shall be determined by the board by contract or otherwise—provided, unless specifically authorized by the voters, by ballot, the aggregate annual compensation of the board and such appointive officers, including the superintendent, shall not exceed the lawful and reasonable compensation of the trustees of a three member board of a like district, and of the superintendent thereof. (Section 3, chapter 48, Laws 1925.)

#### COUNTY SCHOOL DISTRICTS

156. **How organized**—Any county having less than five (5) organized school districts and having within its borders a district of ten or more townships, which contains more than one-half of the area of the county, may consolidate such districts into one county district, which shall be designated as County District of ..... County, in the following manner:

The board of county commissioners of such county may by a resolution, and upon petition to such board signed by not less than ten per cent of the qualified voters of the county according to the votes of the then last preceding general election, shall submit to the qualified electors of the county at the next general election to be held in such county not less than thirty days thereafter, the proposition of consolidating said districts into a county district. The ballots submitting the same shall read as follows:

For consolidation .....

Against consolidation .....

Such ballots shall be voted, canvassed and the result declared and returned in the same manner as ballots for elective county officers. If a majority of the votes cast on the proposition be for consolidation, the county auditor shall make proper orders to give effect to such vote and shall transmit a copy thereof to the clerk of each district.

The school board of each district shall continue to maintain schools therein in the same manner as if no consolidation had been voted until July 1st next following, at which time all records, moneys, credits and funds of said districts, except the ten townships district herein referred to, shall be delivered to the county treasurer to act as custodian of same until such time as the organization of the county district shall have been completed. The county treasurer shall give a receipt for such records and funds and shall cause the financial accounts and statements to be audited by competent authority. (Section 1, chapter 82, Laws 1927.)

157. **Same; election of board**—The school board of any such county district shall consist of six members to be elected at the same time, in the same manner and for the same term as school board members in a ten or more townships district, provided, that each member of the board of the ten or more townships district herein referred to shall continue to serve as a member of the school board of the county district for the full term for which he was elected and until his successor has qualified. The board of county commissioners shall be and are hereby authorized to appoint the remaining members of such board for the same term as such members herein referred to. The school board shall organize in the same manner and at the same time as boards of independent districts. (Section 2, chapter 82, Laws 1927.)

158. **Same; power of board**—The school board of any such county district shall have and shall exercise all powers, and be subject to the same laws and regulations as school boards of ten or more townships and independent consolidated districts, and all laws applicable to ten and more townships and independent consolidated districts shall apply to said county districts. (Section 3, chapter 82, Laws 1927.)

159. **Same; time of school election**—The election of the county district shall be held on the same day as the election in ten or more townships district, at the same time and in the same manner as elections are held therein. (Section 4, chapter 82, Laws 1927.)

160. **Same; voting districts**—That until otherwise determined by the electors, county commissioner districts numbers 1 and 5 shall constitute election district number 1, from which shall be elected two members of said board, and county commissioner districts numbers 2, 3 and 4 shall constitute election district number 2, from which shall be elected three members of said board, and that the remaining member of said board shall be elected at large in said county. (Section 5, chapter 82, Laws 1927.)

161. **Same; compensation of board**—The members of the board shall receive a per diem of \$6.00 while attending any regular or special meeting of the board, but not, however, more than \$72.00 in any one year, and shall receive 4 cents per mile in going to and from his place of residence to the place of meeting by the usual route of travel. (Section 6, chapter 82, Laws 1927.)

162. **Same; office of county superintendent discontinued**—Upon the completion of the organization of a county district and the election of a superintendent, the office of county superintendent of schools in said county shall cease to exist from January 1st next following and the functions and duties of the county superintendent of schools shall be performed by the superintendent of the county district. (Section 7, chapter 82, Laws 1927.)

## CHAPTER IV.

### DISTRICT BONDS AND INDEBTEDNESS.

163. **Bonds, how issued**—The trustees or board of education of any school district in this state, whether such district be organized by or under any special law of this state, or otherwise, are hereby authorized and fully empowered to issue the orders or bonds of their respective districts, with coupons, in such amounts and at such periods as they may be directed by a vote of a majority in favor thereof of the legal voters present and voting at any annual meeting, or at any special meeting, called for the purpose, of the district; said orders or bonds to be payable in such amounts and at such times, not exceeding fifteen years, as the legal voters thereof at such meeting shall determine, with interest not to exceed seven per cent per annum; which orders or bonds and coupons shall be signed by the directors and countersigned by the clerk of said district, or by the president of [the] board of education and the clerk of the board of education. (1973)

A majority and not a two-thirds vote is necessary to carry a bonding proposition. (Smith, August 31, 1916.)

School bonds issued to private parties must be payable in not more than fifteen years. (Smith, Feb. 5, 1917.)

Authority given to issue the bonds for a schoolhouse implies the power to sell them. (17 M. 412) (Gil. 391.)

The minutes of a meeting upon the issuance of bonds were kept by the secretary, and the next day he transcribed them into the records. In such case the records, and not the minutes, are the original; and such records is the evidence. (17 M. 412) (Gil. 391.)

Notice of special meeting to vote upon the issue of bonds should state the hour of opening and closing the polls. (Young, April 24, 1908.)

164. **Bonds, for what purposes**—When the governing body of any municipality shall have resolved that it is expedient to borrow money for one or more of the purposes hereinafter named and to an amount which shall not increase its net indebtedness beyond the limit fixed by law, and a proposal so to do, if required by law, shall have been duly sub-

mitted to and approved by the voters thereof, the bonds of such corporation may be issued and sold, conformably to the provisions of this chapter, to the amount so authorized, as follows: \* \* \* 4—School districts—In the case of school districts, including special and independent districts, whether lying within a city or village or not, for the purchase of sites for school houses, and for defraying the expenses incurred or to be incurred in building, rebuilding, remodeling, repairing and furnishing school houses, and installing heating, ventilating and plumbing plants in the same, and equipping the same with libraries, apparatus and other school furniture. 5. Refunding—In the case of all the before mentioned municipal corporations, for paying any judgment lawfully rendered against them, or for refunding outstanding bonds or floating indebtedness. (1942)

Construing sections 1855 and 1968 G. S. 1913, it is held that the issuance of bonds must be initiated by the school board and that a resolution declaring the expediency such as is contemplated in section 1942 must be passed before a vote of the district; and that without such prior resolution a vote at a school meeting to issue bonds is ineffective and does not authorize the board to issue bonds. (139 M. 94.)

165. Loans from and bonds to state—Whenever any municipality (school district) is authorized by law to issue its bonds and borrow money thereon, the same may be issued, negotiated, sold and delivered to the state of Minnesota by conforming hereto. (1960)

166. Same; proceedings—Whenever any municipality (school district) desires to issue its bonds to the State of Minnesota for any purpose now, or hereafter, requiring a vote of the electors, the governing body of such municipality (school district) may adopt, by majority vote, a resolution stating that it is expedient, in the opinion of such governing body, to issue to the State of Minnesota the bonds of such municipality (school district) for the purpose or purposes therein stated, to the amount therein mentioned, to mature, to bear the rate of interest, and to be of the number and amount therein set forth, or whenever a petition is filed with the clerk, or other like officer of such municipality (school district), signed by ten or more freeholders, residents therein, stating that in the opinion of such persons signing the same it is expedient to issue to the State of Minnesota the bonds of such municipality (school district) for the purpose or purposes therein stated and to the amount therein mentioned, said clerk or other like officer shall furnish and give proper notice to said governing body, which shall meet within ten days after such notice, and if the proposition contained in said petition be deemed by it expedient it shall adopt a resolution setting out the same facts as hereinbefore provided in case the initiative for such bond issue to the state is taken by such governing body; in either event the clerk or other like officer of such municipality (school district) shall submit the proposition or propositions therein contained to the electors thereof at a special meeting to be held therein at a date not more than thirty days after the adoption of such resolution and shall give notice thereof by posting in three or more public places in said municipality (school district), and in case of counties the same notice in each election precinct therein; and if there be one or more legal newspapers in said municipality (school district), by publishing twice in not less than one such newspaper to be designated by the said clerk or other like officer, at least ten days before such election, the following notice. (1962)

Note.—As to form of notice, form of ballot to be used, conduct of election, canvass and return of vote, necessary blank forms, issue of bonds and application to the state for their purchase, see chapter 122, Laws of 1907, and consult board of investments, State Capitol, St. Paul.

Note.—Whenever a school district is otherwise authorized by law to issue bonds, it may, by complying with the provisions of chapter 122, Laws of 1907, issue the same to the State of Minnesota provided they do not run for less than five (5) years nor more than twenty (20) years, and that the indebtedness thereby created—together with all other indebtedness of such district—does not exceed fifteen (15) per cent of the assessed valuation of the district. (Chapter 8, 1905; chapter 122, 1907: Simpson, August 1, 1911.)



A petition for the issuance of bonds signed by the number required by the statute is not rendered invalid by the additional signatures of members of the board who were not personally or financially interested in the result. (122 M. 60.)

Where different structures are to be built or remodeled the vote must be a separate one on each of the propositions. (Smith, March 15, 1916.)

167. School districts to create sinking fund in certain cases—At or before the issuance of bonds by a school district which bonds together with the bonds of said school district then outstanding, excluding bonds issued to the State of Minnesota, will be in excess of fifteen per cent of its last assessed valuation the school board shall by resolution provide for the levy of an annual tax to pay the interest and create a bond sinking fund which annual tax shall be not less than an amount sufficient to pay the interest due the following year on all bonds of said school district then outstanding, excluding bonds issued to the State of Minnesota, and an amount not less than four per cent of the face value of said proposed bond issue and all other bonds of said school district then outstanding, excluding bonds issued to the State of Minnesota. A certified copy of said resolution shall be filed with the county auditor who shall include the levies provided for in the annual tax levies of said school district. The tax levy herein provided for shall be in addition to the tax levy required by section 1878, General Statutes 1913, to pay the principal and interest of bonds issued to the State of Minnesota. Provided, however, that the sinking fund herein provided for shall be invested in accordance with the provisions of section 1867, General Statutes 1913, or in obligations of the United States. (Chapter 195, Laws 1923.)

168. Sinking funds; investment—The treasurer of any school district in the state is authorized to invest any of the sinking funds in his hands belonging to such school district in bonds of the State of Minnesota, or of any other state, or in bonds of any county, school district, city, town or village of the state but no investment shall be made in bonds issued to aid in the construction of any railroad; provided, however, that the net return of any such investment, taking into account the price paid for the bonds, the date when the same shall fall due and the rate of interest thereon, shall be at a rate not less than  $3\frac{1}{2}$  per cent per annum for the whole period elapsing before the maturity thereof; and provided further, that any such investment shall be made only after the same has been duly authorized at a general or special meeting of the board of directors or trustees of such school district. (1949)

169. Liability of treasurer—For any loss occurring by reason of the depreciation of any securities purchased under the provisions of this act, or by reason of its failure to pay the same, or any part thereof, on the part of the public body or corporation issuing the same, the treasurer making the investment and the sureties upon his official bond as such shall not be liable. (1950)

## CHAPTER V.

### ACTIONS, JUDGMENTS, PENALTIES.

170. **Actions by districts**—Any school board may prosecute actions in the name of the district in the following cases:

1. On a contract made with the district, or with the board in its official capacity;
2. To enforce a liability, or a duty enjoined by law, in its favor or in favor of the district;
3. To recover a penalty or forfeiture given by law to it or to the district; or
4. To recover damages for an injury to the rights or property of the district. (3097)

When a trustee renders himself liable to a penalty, though the cause of action for the penalty is in the district, the action may be brought by a director or a freeholder in his own name. (31 M. 227.)

171. **Actions against districts**—An action may be brought against any school district either upon a contract made with the district or its board, in its official capacity, and within the scope of its authority, or for an injury to the rights of the plaintiff arising from some act or omission of such board, whether the members of the board making the contract, are guilty of the act or omission complained of, be still in office or not. (3098)

Where a district has changed its name, an action against it should be brought by its new name. (7 M. 203) (Gil. 145.)

A judgment entered against a school district by collusion between the plaintiff and one of the trustees, may be set aside, on a proper application, and a defense on the merits interposed. (45 M. 88.)

Where the trustees knowingly neglected to defend in an action against the district, allowing judgment to go by default, the court may, in its discretion, open such judgement, upon application made immediately after change of trustees. (89 M. 477.)

A complaint on an order of a district which failed to allege the consideration for the order, or that there were funds applicable to its payment, held good as against objections raised for the first time at the trial. (91 M. 41.)

172. **Action when trustees resign, etc.**—In case the trustees of any school district which has contracted an indebtedness shall remove or resign, and none are elected or appointed in their stead, an action to recover such indebtedness may be begun by service of the summons upon the county auditor, and any taxpayer of the district may defend such action in its behalf, or the auditor may be required by the voters of the district to defend the same upon being indemnified against the costs and expenses of such defense. (3102)

### JUDGMENTS.

173. **How paid by treasurer**—Except as hereinafter provided, no execution shall issue upon any judgment against a school district for the recovery of money. Unless the same be stayed by appeal, the treasurer shall pay such judgment upon presentation of a certified copy thereof, if he has sufficient money of the district not otherwise appropriated. If he fails to do so, he shall be personally liable for the amount, unless the collection be afterward stayed. (3099)

A judgement against a district can be paid only out of money not otherwise appropriated. (43 M. 495.)

The treasurer of the district can pay a judgement against the trustees only out of money not otherwise appropriated. He has no authority to pay it out of money applicable only to other specific purposes. (43 M. 495.)

174. **Failure to pay tax—Tax levy**—If such judgment is not satisfied, or stayed by appeal or otherwise, before the next annual meeting of the district, a certified copy thereof may be presented at its annual meeting, whereupon the district shall cause the amount of the judgment, with interest to be added to the tax of said district. If such tax is not levied and certified to the county auditor on or before October 1st next after presentation as aforesaid, a certified copy thereof may be filed with such auditor at any time before he has extended the tax of such district, with an affidavit showing the amount remaining unpaid thereon, and the fact of such presentation to the district. Thereupon the auditor shall at once levy and extend such amount as a tax upon the property taxable within the district. (3100)

175. **When execution may issue**—If the judgment is not paid within thirty days after the time when the proceeds of such levy become payable by the county treasurer of the district, execution may be issued thereon, to which any property belonging to the district shall be liable. (3101)

176. **Same; how satisfied**—If judgment is recovered in any such action, the auditor, upon a certified copy thereof being filed with him, shall levy and extend upon and against the property taxable within the district an amount sufficient to pay the same, with interest. When such tax, or any part thereof, is collected, the county treasurer shall pay the same to the holder of the judgment until it is satisfied in full. And for this purpose the treasurer may use any money coming into his hands from taxes levied prior to the judgment for the payment of the state indebtedness. (3103)

## PENALTIES.

177. **Excluding or expelling pupils**—Any member of any public school board or board of education of any district, who without sufficient cause, or on account of race, color, nationality or social position shall vote for, or being present, shall fail to vote against, the exclusion, expulsion, or suspension from school privileges of any person entitled to admission to the schools of such district, shall forfeit to the party aggrieved fifty dollars for each offense, to be recovered in a civil action. (2998)

A school board has no authority to exclude a child of school age from school during any portion of the school year, and such child is entitled to admission whenever the minimum age is reached, whether the same be at the beginning or during any part of the ensuing term or year. (Simpson, March 4, 1909.)

The fact that parents pay no taxes in no way affects the right of their children to attend school, nor is such right affected by the manner of living of such parents, and while it is not incumbent upon local school districts to educate children of Indian parents who are wards of the government, and have not severed their tribal relations, yet an Indian who has become a citizen of the state, and is a voter, occupies a different position and the children of such person would be entitled to attend school. (Simpson, September 8, 1909.)

178. **Same; failure to pay teachers' wages**—Any treasurer who uses money applicable for teachers' wages for any other purpose shall be personally liable to any teacher who becomes entitled to any part of such fund for such amount to be recovered in a civil action against such treasurer and the sureties on his official bond. (2835)

179. **Same; improper classification of pupils**—No district shall classify its pupils with reference to race, color, social position, or nationality, nor separate its pupils into different schools or departments upon any of such grounds. Any district so classifying or separating any of its pupils, or denying school privileges to any of its pupils upon any ground, shall forfeit its share in all apportioned school funds for any apportionment period in which such classification, separation, or exclusion shall occur or continue. The state superintendent, upon notice to the offending district, and upon proof of the violation of the provisions of this section, shall with-



hold in the semi-annual apportionment the share of such district, and the county auditor shall thereupon exclude such district from his apportionment for such period. (2999)

180. Same; refusing to serve on school board—Any person accepting an election or appointment upon any school board, and refusing or neglecting to qualify or to serve, or to perform any of the duties of such office, shall forfeit for each offense the sum of ten dollars, to be collected in an action before a justice of the peace, to be prosecuted in the name of the district by its director or other proper officer, or by any freeholder thereof. (3000)

Where, at a regular school district meeting, it is voted to have a school kept for a specified time and sufficient funds are provided, the trustees render themselves liable to the penalty imposed by this section, as amended by Laws 1879, chapter 41, by neglecting, without excuse to provide the school the specified time. (Soule vs. Thelander, 31 Minn. 227, 17 N. W. Rep. 373.)

181. Failure of clerk to report—Any clerk of a school district who fails to make any report required of him by law shall forfeit not less than five dollars nor more than fifty dollars for the use of the district. (3001)

Any clerk of a school district who fails to make any report required by law shall forfeit not less than \$5.00 nor more than \$50.00 for the use of the district. (Smith, February 1, 1913.)

182. Drawing illegal order—Any school district clerk who shall illegally draw an order upon the treasurer, any chairman or other officer who shall attest such order, and any school district treasurer who shall knowingly pay the same, shall each forfeit to the district twice the amount of such order to be collected in an action brought in the name of the district by any freeholder thereof. (3002)

The issuance of an order by a school clerk for the payment of the wages of a teacher known to him not to have been licensed to teach, subjects him to a penalty. (31 M. 333.)

Under this section the issuance of an order by a school district clerk, drawn by him upon the treasurer for the payment of the wages of a teacher known to him not to have been licensed to teach, and paid out of the funds appropriated for teachers' wages, is an unlawful diversion of public school funds from their legitimate channel, and subjects him to the penalty prescribed. (School District No. 10 vs. Thelander, 31 Minn. 333, 17 N. W. Rep. 866.)

183. Same; neglecting to keep or deliver records—Any school district clerk who shall neglect to keep the books and records of his office in the manner prescribed by law, or shall wilfully refuse to deliver such books and records to his successor in office, shall forfeit to the use of the district the sum of ten dollars for each offense. (3003)

184. Same ; dealing in school supplies—No teacher, nor any state, county, town, city, or district school officer, shall be interested directly or indirectly in the sale, proceeds, or profits of any book, apparatus, or furniture used or to be used in any school with which he is connected. Any person violating any of the provisions of this section shall forfeit not less than fifty dollars nor more than two hundred dollars for each such offense. But this section shall not apply to a teacher who may have an interest in the sale of any book of which he himself is the author. (3006)

It is not within the reason of the statute to prohibit a person who chancs to be an officer or teacher in a given county or school district from engaging in the sale of such books or apparatus elsewhere than in his county or district. Indeed, it is obvious that the prohibition in terms does not reach sales made elsewhere. (Childs, April 27, 1896.)

185. Same; failure of auditor to report—Any county auditor who shall fail to make to the state superintendent of public instruction any report of apportionment required by law shall forfeit for the benefit of the school fund of the county the sum of fifty dollars. (3004)

186. Same; failure of county superintendent to report—Any county superintendent who shall fail to report to the county auditor the abstract of district clerks' and teachers' reports required by law, or to make his

statistical report to the state superintendent, shall forfeit to the school fund of the county for each such omission, fifty dollars, to be deducted from his salary by the county board. (3005)

187. **Same; failure of officers to report violations of law**—Every officer to whom reports are required by this chapter to be made, and for the failure to make which a penalty of fine or forfeiture is provided, shall give immediate written notice of such failure to the delinquent and to the proper county attorney. Such county attorney shall thereupon institute proper proceedings to collect such penalty, fine, or forfeiture. Upon complaint of the county superintendent, or whenever it comes to his knowledge that any school officer has violated any provision of this chapter, for which violation a penalty, fine, or forfeiture is provided, such attorney shall institute like proceedings. (3007)

School officers against whom charges have been made of illegal acts, can hold respective offices until removed by competent authority. (Simpson, March 18, 1909.)

Where, at the annual school meeting, it was determined that there should be six months' school, a three months' term beginning the first Monday in October, and another three months' term beginning the first Monday in February, but a majority of the school board, disregarding the action of the annual meeting, decided to commence the second term on the second Monday in January, instead of February, the two members of the board voting for and causing such change would not be subject to a fine covering the extra cost, if any, of the January school expenses. (Simpson, March 19, 1909.)

188. **Same; use of tobacco by minors and pupils**—Every person under the age of eighteen years, and every minor pupil in any school, college, or university, who shall smoke or use cigarettes, cigars or tobacco in any form on any public road, street, alley, park or other lands used for public purposes, or in any public place of business, shall be guilty of a misdemeanor, and punished for each offense by a fine of not more than ten dollars, or by imprisonment in the county jail for not more than five days; and every person who shall furnish any cigarettes, cigars or tobacco in any form to any such minor person or who shall permit any such minor person to frequent any premises owned, held, or managed by him, for the purposes of indulging in the use of cigarettes, cigars, or tobacco in any form, shall be guilty of a misdemeanor, and punished by a fine of not more than fifty dollars, or by imprisonment in the county jail not exceeding thirty days, for each offense. (10144)

189. **Same; injury to house of worship, school buildings and school property**—Every person who shall wilfully and without authority, break, deface, or otherwise injure any house of religious worship, or any part thereof, or any appurtenances thereto, any ornament, musical instrument, articles of silver or plated ware, or other chattels kept therein, for use in connection with religious worship, or who shall wilfully break, deface, or otherwise injure any school house or appurtenances, or other public building, or who shall wilfully break, deface, or injure any globe, map or chart, or any other article kept and used in connection with such school house or other public building, shall be guilty of a gross misdemeanor, and punished as follows:

1. If the value of the property broken, defaced, or injured is thereby diminished by an amount less than one hundred dollars, by imprisonment for not more than ninety days, or by a fine of not more than one hundred dollars, or by both.

2. If the value of such property shall be diminished more than one hundred dollars, by imprisonment for not less than six months nor more than two years.

In addition to the punishment herein prescribed, he shall be liable in treble damages for the injury done, to be recovered in a civil action by the owner of the property, or by the public officer having charge thereof. (10430)

190. Same; introducing or having liquors on school house grounds—Any person who shall introduce upon, or have in his possession upon, or in any school ground, or any school house or school building any spirituous or malt liquors, except for experiments in laboratories, shall be guilty of a misdemeanor, the minimum punishment whereof shall be a fine of twenty-five dollars (\$25) or imprisonment for ten (10) days, in the county jail. (10149)

191. Same; use of common drinking cup in public places—In order to prevent the spread of communicable diseases, the use of common drinking cups in public places, public conveyances and public buildings is hereby prohibited. (10277)

192. Violation of a misdemeanor—Whoever violates the provisions of this act shall be deemed guilty of a misdemeanor and be liable to a fine not exceeding twenty-five dollars (\$25) for each offense. (10278)

## CHAPTER VI. PUBLIC SCHOOLS

193. Public schools—Tuition free—Age of pupils—All schools supported in whole or in part by state school funds shall be styled public schools and admission to and tuition therein shall be free to all persons between the ages of five and twenty-one years, in the district in which such pupil resides. Provided, that the school board of any district may, by resolution, exclude all children under six years of age, and may also adopt rules and regulations for the admission of children who become six years of age during the school year after the commencement thereof. (2741)

A school board has no power to exclude a pupil who uses tobacco from the public school. The use of tobacco by students is not wholly prohibited by the statutes. (Young, p. 206.)

Those entitled to admission to the public schools are (1) the children of the actual residents in the district; and (2) all other persons between the ages of five and twenty-one who may be in good faith living in the district. If the parents are in good faith living in the district, although temporarily, the children would be entitled to admission to the school. (Wilson, p. 396.) (See, also, paragraph 31, 1897, chapter 252.)

Whether a minor whose parents reside in another part of the state has a right to attend school in your district depends upon whether said minor is a resident of your district. (Colville, p. 235.)

Residence acquired by students in attendance upon any seminary of learning, or by inmates of any charitable institution, or of a public prison for reformation or punishment, is not of such character as to give the right to attend the district school of the place or to be enrolled for apportionment in such district. (Cornell, p. 257.)

While a parent could not, for the colorable purpose of evading the law, send his children to board in another district for the mere object of attending school, I entertain no doubt that a scholar actually and in good faith domiciled in the district would be entitled to the benefits of the school without regard to the residence of his parents. (Cole, p. 106.)

The right to free tuition depends upon the residence of the pupil claiming it without regard to the residence of his parents. If a child comes into a district for the mere purpose of attending school, the board, in its discretion, may charge tuition, or exclude him altogether. On the other hand, a child who actually resides in a district is entitled to school privileges without charge.

"What are the relative powers and duties of trustees and teachers in reference to the discipline and management of schools?"

For insubordination, immorality, or infectious disease, the board may expel any scholar. It is made the duty of each member of the board at least once in each term to visit the schools and give such advice to the teacher as may be for the benefit of the schools, and they are intrusted with the general charge of the interests of the schools and schoolhouses in their district, and are especially authorized to employ teachers having the requisite certificate of qualification. These are the principal provisions bearing upon the question under consideration, and they seem to leave no doubt that with the single exception of the power of expulsion for the causes specified in the statute, the authority of the trustees over the interior management of the schools is solely advisory in its character. The responsibility for the correct government and discipline of the school, as well as the adoption of such methods of teaching as seem best calculated to promote



the advancement of the scholars in their several branches of study, rests solely with the teacher. Of course there ought and always will be a mutual interchange of views, and a cordial co-operation between teachers and trustees in all these matters, whenever a regard is had to the important interest intrusted to their charge. (Cornell, p. 265.)

There is no doubt of the right of the parent to send his children into any district he may select so long as he is willing to assume the extra burden thereby imposed upon him. (Clapp, May 3, 1888.)

Corporal Punishment.—To use . . . force or violence upon . . . the person of another is not unlawful . . . when committed by a . . . teacher, in the exercise of a lawful authority to restrain or correct his . . . scholar, and the force or violence used is reasonable in manner and moderate in degree.

The mere designation of tuition charge as "book rent" when in fact it is a tuition charge, will not in any way affect the law or warrant the drawing of apportionment for pupils paying such "book rent." (Simpson, March 8, 1909.)

The maintenance of public schools is a matter, not of local, but of state concern; and under the constitution it is mandatory upon the legislature to exercise its power of providing for the establishment and maintenance of such schools by taxation and otherwise. (122 M. 254.)

194. **Classes of schools**—(1) Graded elementary schools. (2) ungraded elementary schools, (3) four year high schools, (4) high school departments, (5) junior high schools, (6) senior high schools and (7) consolidated schools.

195. **Definitions**—(1) A graded elementary school shall be a school giving instruction in at least the first six years of the elementary course and employing at least four teachers, one of whom shall be designated as principal. /

(2) An ungraded elementary school shall be a school giving instruction in the elementary course and employing one or more teachers, but not having the rank of a graded elementary school.

(3) A four-year high school shall be a school giving one or more four-year courses beyond the eight-year elementary course. It shall be located in a school district which maintains a graded elementary school, or within a district having a population of not less than 800 people according to the last federal census, and which shall employ a superintendent, a high school principal and one or more high school teachers.

(4) A high school department shall be a school giving instruction in at least the first two years high school subjects beyond the eight-year elementary course. Such school shall be located in a school district which maintains a graded elementary school and which employs one or more fully qualified high school teachers to give instruction in such high school subject. The principal may be one of the high school teachers if fully qualified to teach high school subjects. (3026, as amended by chapter 413, Laws 1925.)

(5) A junior high school shall be a school having a separate organization and employing a principal and two or more teachers giving instruction in the seventh, eighth and ninth years of the twelve-year public school course. It shall be located in a school district which also maintains a six-year elementary course.

(6) A senior high school shall be a school having a separate organization and employing a principal and two or more high school teachers giving instruction in the tenth, eleventh and twelfth years of the twelve-year public school course. It shall be located in a school district which also maintains a graded elementary school of six years and a junior high school and which employs a superintendent for the entire system of public schools in such school district.

(7) A consolidated school shall be any school located in a school district organized by law as a consolidated school district. Such consolidated schools shall also be classified under one of the six preceding headings of this section. (3026, as amended by chapter 282, Laws 1925.)

196. **General control of schools**—The teacher shall have the general control and government of the school. When more than one teacher is employed in any district, one of the teachers may be designated by the board as principal and shall have the general control and supervision of the schools of the district, subject to the general supervisory control of the board and other officers. (2871)

A superintendent cannot prevent pupils holding dances outside the schoolhouse and grounds and not during school hours. (Smith, Nov. 17, 1916.)

A superintendent or principal may discipline pupils for offenses committed out of school hours and off school grounds, which have a tendency to influence the conduct of other pupils while in the school room, to set at naught the proper discipline of the school, to impair the authority of the teachers and to bring them into ridicule and contempt. (Hilton, April 11, 1919.)

197. **Length of school year**—The school shall be maintained not less than seven nor more than ten months, but this provision shall not apply to night schools or kindergartens. The school month shall consist of four weeks. Every Saturday shall be a school holiday and all legal holidays shall be counted as a part of the school week. (2782)

198. **Displaying of United States flag at various schools**—There shall be displayed at every public school in Minnesota, when in session, an appropriate United States flag. Such display shall be upon the school grounds or outside the school building, upon a proper staff, on every legal holiday, occurring while the school is in session and at such other times as the respective boards of such school districts may direct and within the principal room of such school building at all other times while the same is in session. (2882)

199. **School boards to provide flags and staffs**—It shall be the duty of every school board and board of education to provide such flag for each of the school buildings of their respective districts, together with a suitable staff for the display thereof outside of such school building and proper arrangement for the display thereof within such building and a suitable receptacle for the safe-keeping of such flag when not in use, as by this act directed, at all times. (2883)

200. **Holidays**—The word "holiday" shall include New Year's Day, January 1st; Lincoln's Birthday, February 12th; Washington's Birthday, February 22nd; Memorial Day, May 30th; Independence Day, July 4th; Labor Day, first Monday in September; election day, the first Tuesday after the first Monday in November of the even numbered years; Christmas Day, December 25th; and the Friday next preceding Easter Sunday and commonly known as Good Friday, and Armistice Day, November 11th. No public business shall be transacted on those days except in cases of necessity, nor shall any civil process be served thereon. (10933-6)

Legal holidays are school holidays also. (Young, Feb., 1907.)

When a legal holiday falls on Sunday the following Monday is not a legal holiday, but the school board may declare it a holiday, and may order school closed on that day. If this is done teachers are entitled to compensation on that day. (Hilton, June, 1920.)

201. **Authority to hold school on holidays**—The governing body of any school district may in their discretion contract with any of the teachers thereof for the conduct of schools, and may conduct schools on either, or any, of the following holidays: Lincoln's and Washington's birthdays, and election day; provided that on Washington's birthday and Lincoln's birthday at least one hour of the school program be devoted to a patriotic observance of the day. (Section 1, chapter 239, Laws 1927.)

202. **Instruction in public schools**—The books used and the instruction given in public schools shall be in the English language, but any other language may be used by teachers in explaining to pupils who understand such language the meaning of English words; and in high and graded schools other languages may be taught when made part of a regular or

optional course of study. Instruction may also be given in such languages in common schools, not to exceed one hour in each day, by unanimous vote of the trustees. (2873)

If unanimously authorized by the board, under no other circumstances a foreign language may be taught for not more than one hour in any school day as a part of the instruction in a public school. If a teacher violates this law, she violates her contract and is not entitled to compensation out of the treasury; and may be compelled by legal proceedings to obey the law. (Young, p. 184.)

"Are trustees required by law to cause schools to be taught in the English language?" The school laws prescribe those branches of study which are to be taught in our common schools. The languages are not included. That those branches are to be taught in the English language it requires no argument to prove. The government has yet to exist which will expend the contents of its treasury to the neglect of its own language in educating its citizens in the language of a foreign country whose institutions and laws are at variance with its own. (Cole, p. 76.)

Proviso First.—A school in which the instruction is given in foreign languages cannot be regarded as in any sense a public school; no taxes can be legally levied for the support of such a school and it is the duty of the county superintendent to see to it that such a school receive no part of the apportionment of the public money.

203. Instruction in morals, etc.—The teachers in all public schools shall give instruction in morals, in physiology and hygiene, and in the effects of narcotics and stimulants. (2906)

In the case of *Rasnick vs. District No. 60, Stearns County*, April 24, 1897, in the district court, it was held that a public schoolhouse cannot be used, either in or out of school hours, for the purpose of giving any religious instruction, or the conducting of any religious exercises therein, which are peculiar to the distinctive teachings, practices, doctrines, creed, tenets, or beliefs of any religious faith, church, or denomination, particularly from using or allowing the school house to be used for the same, of any of the prayers or the teachings of the catechism, or the conducting of any of the religious exercises mentioned herein.

204. Requiring teaching of Declaration of Independence and Constitution of United States—In the eighth grade and in the high school grades of all public schools, and in the corresponding grades in all other schools within the State of Minnesota, and in the educational departments of state and municipal institutions there shall be given regular courses of instruction in the Declaration of Independence and the Constitution of the United States, to an extent to be determined by the State Commissioner of Education. (2881)

205. Physical training in schools—There shall be established and provided in all the public schools of this state, physical and health education, training and instruction of pupils of both sexes and every pupil attending any such school, in so far as he or she is physically fit and able to do so, shall take the course or courses therein as provided by this act. Suitable modified courses shall be provided for students physically or mentally unable or unfit to take the course or courses prescribed for normal pupils. Provided that nothing in this act shall be held or construed to require any pupils to undergo a physical or medical examination or treatment if the parent or legal guardian of the person of such pupil shall in writing notify the teacher or principal or other person in charge of such pupil that he objects to such physical or medical examination or treatment. (3073)

206. All colleges, schools and other educational institutions in this state giving teacher-training shall provide a course or courses in physical and health education, training and instruction and every pupil attending any such college, school or educational institution in preparation for teaching service shall take such course or courses. (3074)

207. The Commissioner of Education shall supervise the administration of this act and shall prescribe the necessary course or courses in physical and health education, training and instruction, and make such rules



and regulations, and prepare or cause to be prepared, published and distributed any such manual or manuals of instruction, or course or courses of study, or other matter as he may deem necessary or suitable to carry out the provisions thereof. (3075)

208. The State Board of Education shall appoint at a salary of not to exceed \$3,000.00 per annum a state director of physical and health education and training, competent and qualified to, and who shall under the direction of the Commissioner of Education, administer, supervise and direct the program of physical and health education and training, provided for by this act. (3076)

209. Patriotic exercises in all public schools—In all of the common, graded and high schools of this state it shall be the duty of the superintendent or teachers in charge of such schools to teach and require the teaching therein, on at least one day out of each week, of subjects and exercises tending and calculated to encourage and inculcate a spirit of patriotism in the pupils and students. Such exercises shall consist of the singing of patriotic songs, readings from American history and from the biographies of American statesmen and patriots and such other patriotic exercises as the superintendent or teachers of such schools may determine. The time to be spent thereon on each of said days shall not exceed one-half hour. (2880)

210. Frances Willard Day—The twenty-eighth day of September in each year is set apart and designated as Frances Willard Day. In any year when the 28th day of September shall fall upon a day which is not a school day, the first school day following such date shall be Frances Willard Day, instead of the twenty-eighth day of September. On Frances Willard Day, approximately one and one-half hours may be devoted in the schools of this state for instruction and appropriate exercises relative to the life of Frances Willard and to the principles and ideals she fostered. (Chapter 414, Laws 1921.)

211. Deaf children, instruction for, how provided—Upon application of any special, independent or common school district, complying with the provisions of this act, made to the state superintendent of education, he may grant permission to such district to establish and maintain within its limits one or more schools for the instruction of deaf children who are residents of the state.

Any school district which shall maintain one or more such schools, shall through its clerk or secretary report to the state superintendent of education annually, or oftener if he so direct, such facts relative to such school or schools as he may require.

The course and methods of instruction must comply with such requirements as may be outlined by the state superintendent of education. All schools for deaf children established under this act shall be conducted by the combined system which includes the oral, the aural, the manual and every method known to this profession; and the courses and methods of instruction shall be substantially equal or equivalent in efficiency to the course and methods of instruction established and employed in the state school of the deaf at Faribault, Minnesota. The state superintendent of education may designate any member of his staff as an inspector to visit and note the progress of the school provided for in this act.

Permission to establish such special classes may be granted to districts which have an actual attendance of not less than five deaf children, over four and not exceeding the maximum school age who may come under the provisions of this act.

Blind children, defective speech children and mentally subnormal children are not to be admitted to the same class with deaf children, over four and not exceeding the maximum school age who may come under the provisions of this act.

There shall be paid out of the current school fund in the state treasury annually in the month of July, to the treasurer of the school district board, of the board of education, in the school district maintaining such school or schools under the charge of one or more teachers, whose appointment and qualifications shall be approved by the state superintendent of education, the sum of two hundred and fifty (\$250) dollars for each deaf child instructed in such school or schools having an annual session of at least nine months during the year preceding the first day of July.

It shall be the duty of the treasurer of the school district or of the board of education receiving the aid provided for in this section, to render annually to the state superintendent of education an itemized statement of all expenditures of said school or schools. Any surplus at the end of the year shall be reserved as a special fund for the education of the deaf children of that district and can be used for no other purpose. (2894)

212. Blind children, instruction for, how provided—Upon application made to the state commissioner of education by any special, independent or common school district, complying with the provisions of this act, said commissioner may grant permission to such district to establish and maintain within its limits one or more classes for the instruction of blind children who are residents of the state.

Any school district which shall maintain one or more such classes shall, through its clerk or secretary, report to the state commissioner of education annually, or oftener if he so direct, such facts relative to such class or classes as he may require.

The courses, methods of instruction and supervision, the conditions under which teachers are employed and the equipment must comply with such requirements as may be prescribed by the state commissioner of education. Teachers in such classes shall be appointed as are other public school teachers. They shall possess the usual qualifications required of teachers in the public schools, and in addition thereto such special training as the board of education or state commissioner may require.

Permission to establish such special classes shall be granted to aforesaid districts which have an actual attendance of not less than five blind children of school age, who may come under the provisions of this act; provided, however, that whenever the parents or guardians of eight blind children of school age in any one district shall petition the school board in writing for the establishment of such class and shall actually enroll said children in the school of the district, it shall be mandatory upon such district to establish such special class, subject to approval by the commissioner of education as required herein, and provided, further, that nothing in this act shall be construed as preventing the parents of any such children from sending their children to state school for blind, if they so elect.

For the purpose of this act, any person of sound mind who, by reason of defective sight, can not profitably or safely be educated in the public school as other children, shall be considered blind, and, after the establishment of such classes by any school district, the compulsory school laws of this state shall be deemed to apply to such children under the age of sixteen years.

There shall be paid out of the current school fund in the state treasury annually in the month of July, to the treasurer of the school district board or the board of education, in the school district maintaining such class or classes, the sum of three hundred (\$300) dollars for necessary school expense on account of each blind child instructed in such class or classes, having an annual session of at least nine months during the year preceding the first day of July, providing such child has been in attendance the full nine months or a proportionate amount for such time as they have attended.

It shall be the duty of the treasurer of the school district or the board of education receiving aid provided for in this section, to render annually to the State Commissioner of Education, an itemized statement of all expendi-

tures of said class or classes. Any surplus at the end of the year not expended for salaries of special teachers, special instruction, special readers, special supervision, special equipment, special material and transportation of pupils of such class or classes, shall be reserved as a special fund for the education of blind children of that district and can be used for no other purpose. (2895)

213. Defective speech children, instruction of—Section one (1) of this act shall, so far as applicable, provide for and apply to schools for defective speech children, except that these schools shall be under the control of the commissioner of education and that there shall be paid out of the special state aid fund annually in the month of July to the treasurer of the school district maintaining a school or schools for defective speech children under the charge of one or more teachers whose appointment and qualifications shall be approved by the commissioner of education, such sum as such district may be entitled to for the instruction of defective speech children under provisions of the state aid law. (2896)

214. Mentally subnormal children, how instructed—Section one (1) of this act shall so far as applicable, provide for and apply to schools for mental subnormal children, except that these schools shall be under the control of the state superintendent of education and that there shall be paid out of the current school fund in the state treasury annually in the month of July to the treasurer of the school district maintaining a school or schools for mental subnormal children under the charge of one or more teachers whose appointments and qualifications shall be approved by the state superintendent of education, the sum of one hundred (\$100.00) dollars for each mental subnormal child instructed in such school or schools having an annual session of at least nine months during the year next preceding the first day of July. (2897)

The school board may transfer mentally defective children from the regular grades to special classes. (Hilton, September, 1921.)

215. Permission to establish instruction for deaf, blind, defective speech and subnormal, when granted—Permission to establish such special classes as may come under the provisions of sections 3 and 4 of this act, may be granted to districts which have an actual attendance of not less than five children of school age. (2898)

216. Schools for crippled children—Upon application made to the Commissioner of Education by any school district, complying with the provisions of this Act, said commissioner may grant permission to such district to establish and maintain within its limits one or more classes for the instruction of crippled children who are residents of the state, providing there shall be not less than five crippled children of school age in each class.

The courses, method of instruction and supervision, the conditions under which teachers and helpers are employed, and the equipment, must comply with such requirements as may be prescribed by the Commissioner of Education. Teachers in such classes shall be appointed as are other public school teachers, and shall possess the usual qualifications required of teachers in public schools, and in addition thereto, such special training as the Commissioner of Education may require. Nurses appointed to such schools shall be registered nurses, and shall be subject only to such additional examination as the Commissioner of Education may require, and their appointments shall be on the same basis as public school teachers.

For the purposes of this act, any child of school age, other than one of defective hearing, speech or sight, and who is of normal mind but is deformed in body or limb and who cannot profitably or safely be educated in the regular classes as other children, shall be considered crippled and required to attend such classes, unless excused because of infectious disease or other conditions making attendance undesirable.

Any school district maintaining one or more such classes, shall, through its superintendent, report to the Commissioner of Education annually, or



oftener if he so desires, such facts relative to such class or classes as he may require, and such superintendent shall render annually to the Commissioner of Education an itemized statement of all expenditures of said class or classes.

There shall be paid out of the current school fund in the state treasury, annually at the same time as other state school aid is paid, to the treasurer of the school district board, or of the board of education, in the school district maintaining such class or classes the sum of \$200 for necessary school expenses including salaries for teachers and nurses, transportation, special supplies and equipment, on account of each crippled child instructed in such class or classes having an annual session of at least nine months during the year preceding the first day of July, provided such child has been in attendance the full nine months or such proportionate part of \$200 as shall correspond to the actual time of attendance of each pupil. (2899)

217. **Secret fraternities in the public schools**—From and after the passage of this act it shall be unlawful for any pupil, registered as such, and attending any public high school, district, primary or graded school, which is partially or wholly maintained by public funds, to join, become a member of, or to solicit any other pupil of any such school to join, or become a member of any secret fraternity or society wholly or partially formed from the membership of pupils attending any such schools or to take part in the organization or formation of any such fraternity or society, except such societies or associations as are sanctioned by the directors of such schools. (2874)

218. **Directors to establish rules and regulations**—The directors of all such schools shall enforce the provisions of section 1 of this act, and shall have full power and authority to make, adopt and modify all rules and regulations which in their judgment and discretion may be necessary for the proper governing of such schools and enforcing all the provisions of section 1 of this act. (2875)

219. **Directors shall have power to suspend or dismiss**—The directors of such schools shall have full power and authority, pursuant to the adoption of such rules and regulations made and adopted by them, to suspend or dismiss any pupil or pupils of such schools therefrom, or to prevent them, or any of them, from graduating or participating in school honors when, after investigation, in the judgment of such directors, or a majority of them, such pupil or pupils are guilty of violating any of the provisions of section 1 of this act, or who are guilty of violating any rule, rules or regulations adopted by such directors for the purpose of governing such schools or enforcing section 1 of this act. (2876)

220. **Soliciting a misdemeanor, by persons, not pupils**—Municipal and justice courts to have jurisdiction—It is hereby made a misdemeanor for any person not a pupil of such schools to be upon the school grounds, or to enter any school building for the purpose of "rushing" or soliciting while there any pupil or pupils of such school to join any fraternity, society, or association organized outside of said schools. All municipal courts and justice courts of this state shall have jurisdiction of all offenses committed under this section, and all persons found guilty of such offenses shall be fined not less than two dollars nor more than ten dollars, to be paid to the city or village treasurer, when such schools are situated inside of the corporate limits of any city or village, or to the county treasurer when situated outside of the corporate limits of any such city or village, or upon failure to pay such fine, to be imprisoned for not more than ten days. (2877)

221. **Force or violence, when lawful**—The use, attempt, or offer to use force or violence upon or toward the person of another shall not be unlawful in the following cases:

(4) Whenever used in a reasonable and moderate manner by a parent

or his authorized agent, a guardian, master, or teacher, in the exercise of lawful authority, to restrain or correct his child, ward, apprentice or scholar. (10100)

222. **Elementary schools in county jails**—The county board of each county in this state wherein is maintained a county jail or work farm may provide a school or schools for the instruction in the elementary branches of learning of all persons detained therein as prisoners, and in such case shall provide the necessary furniture, appliances and teachers to be paid for out of the county annual revenue fund; such schools to be maintained for not less than two hours each school day or night sessions if necessary and school attendance by the prisoners shall be made compulsory as far as possible. The teachers necessary for such purposes shall be appointed by the county board with the approval of the county superintendent of schools who shall exercise supervision thereover in connection with his other duties as such superintendent. (10865)

223. **Treatment and care of indigent blind infants**—The board of control of the State of Minnesota is hereby authorized and directed to provide at some state institution by law under its control, to be selected by it, for the care, medical treatment, maintenance and education of indigent blind infants, residents and citizens of the State of Minnesota, under such rules and regulations as said board may prescribe. (4451)

224. **Association of schools—Admission of pupils to central school**—Any pupil from an associated rural school shall be admitted to any grade or department in the central schools upon the same conditions as pupils resident in the district of the central school. (Section 9, chapter 239, Laws 1915.)

225. **Same; termination of relations**—The relationship between any associate school district and the central school shall be permanent except as it may be terminated at the end of any school year, by a two-thirds vote of the school board of the central district or by a majority vote of the voters of the associated district, if such vote be taken at a special election called and held for that purpose prior to March 15th next preceding the close of the current school year and written notice of the action of each district be given to the other within ten days. (Section 10, chapter 239, Laws 1915, as amended by chapter 354, Laws 1917.)

## CHAPTER VII.

### SCHOOL TAXES.

226. **State school tax**—There shall be levied annually upon the taxable property of the state a tax of one and twenty-three one-hundredths mills on the dollar, to be known as the state school tax, of which one mill on the dollar shall be added to the general school fund, which shall then be known as the current school fund, and the remainder of such tax shall be added to the university fund. (3011)

227. **County school tax—District tax**—The county auditor shall extend upon the tax lists of the county, in the same manner as district school taxes are extended a tax of one mill on the dollar of the taxable property in each district, to be known as the county school tax, and be credited to the school district in which the property taxed is situated. The tax levied by school districts shall be known as the district school tax. (3012)

228. **City, village, town and school district taxes**—The taxes voted by cities, villages, towns and school districts shall be certified by the proper authorities to the county auditor on or before October 10 in each year. (2058)

229. **Contract in excess void—Liability of officers**—It shall be unlawful for the authorities of any county, town, city, village, or school district, unless expressly authorized by law, to contract any debt or incur any pecuniary liability for the payment of either the principal or the interest of which during the current or any subsequent years it shall be necessary to levy a rate of taxes higher than the maximum prescribed by law. Every such contract shall be null and void in regard to any obligation thereby sought to be imposed upon such corporation, but every officer, agent, or member thereof who participates in or authorizes the making of such contract shall be individually liable for its performance. Every such officer or agent, who is present when such contract is made or authorized shall be deemed to participate in or authorize the making thereof, as the case may be, unless he enter or cause to be entered his dissent therefrom in the records of such corporation. (2070)

230. **Limitation of tax**—In common districts such district school tax shall not exceed thirty mills on the dollar for the support of the schools and ten mills for the purchase of school sites and the erection and equipment of school houses; but in such districts in which such ten mill tax will not produce six hundred dollars, a greater tax may be levied for school sites and buildings, not to exceed thirty mills on the dollar, nor six hundred dollars in amount. In common districts having less than ten voters the district school tax shall not exceed four hundred dollars. In independent districts no tax in excess of eight mills on the dollar shall be levied for the purpose of school sites and the erection of school houses. In special districts, such amounts may be levied as may be allowed by special law at the same time when the revised laws take effect. Provided that in any common school district of this state in which there is now or shall thereafter be maintained a high school or a graded school, the district school tax for the support of schools may be not to exceed thirty mills on the dollar. (3013)

Levy by an independent district in separate funds authorized. (75 M. 456.)

The board of an independent district has power to levy taxes for the support of the schools of the district in excess of the statutory limitation for common districts. (87 M. 234.)

The school board, and not the electors, of an independent district has the power to levy taxes. (Young, June, 1906.)

231. **Same; county auditor to make a 10-mill tax levy in certain counties**—In each county in this state in which a majority of the rural schools, and not less than one-third of the total school enrollment, are or shall be in one or more school districts each of which embrace ten or more townships, the per capita assessed valuation of which district or districts is or shall be less than one-half the per capita assessed valuation of the entire county, the county auditor shall annually, on or before the tenth day of October, make a county school tax levy of ten mills upon all the taxable property in the county, which tax and the proceeds thereof he shall apportion, as and when other apportionments are made, among the school districts of the county on the basis of their respective school enrollments during the school year last preceding. (Sec. 1, c. 271, Laws 1919.)

232. **Same; definition of the words "per capita"**—The words "per capita" as used in this act shall be construed to mean "per capita of school enrollment" during the school year last preceding; and, in determining such school enrollment for the purposes of this act, no scholar shall be counted more than once in any district, and no district shall be entitled to any portion of said fund that has not had at least six months of school term within the year, conducted pursuant to the provisions of chapter 14, General Statutes 1913, and acts amendatory thereof and supplementary thereto, nor shall any district be entitled to any part of said fund for any pupil who has not attended school at least forty days within such year. Such school enrollment shall be correctly shown in, and determined by the auditor from an abstract filed with him by the county superintendent of



schools, on or before the last Wednesday in October of each year, which abstracts shall contain, as well, all of the information contemplated by sections 2882 and 2883 of the General Statutes of 1913, and acts amendatory thereof and supplementary thereto. (Section 2, chapter 271, Laws 1919, as amended by section 19, chapter 467, Laws 1921.)

233. Same; not to otherwise prohibit the levying of taxes—Nothing herein contained shall be construed to prohibit the levying of taxes by said school districts as by law otherwise provided, but the aggregate of said county school tax and of the district tax levied in each district shall not exceed the maximum allowed by law to be levied in such district. (Sec. 3, c. 271, Laws 1919.)

234. Same; to be placed in separate fund and to be disbursed by county education committee—The amounts apportioned to each district from said county school tax and the proceeds thereof shall be by said district kept in and disbursed from a separate fund; and the disbursement and expenditure by said district of so much of said fund as exceeds the amount thereof raised within said district shall be subject to the reasonable supervision and approval of a committee comprising the chairmen of all the school districts in the county. Said committee shall be known as the "County Educational Committee," shall meet for organization at the office of the county auditor on the first Monday in August of each year, and may take such other action at that meeting, hold such other meetings, adopt such rules, appoint such officers and sub-committees, and generally exercise their powers in such manner as shall carry out the purposes of this act, advance the educational interests of the county, and not unreasonably interfere with the control and management by each district of its schools. No compensation shall be allowed for service on said committee, but the reasonable expenses of each member may be paid by his district. No part of said county school tax shall be expended for purposes for which district taxes may not be expended. (Sec. 4, c. 271, Laws 1919.)

## CHAPTER VIII.

### FUNDS AND APPORTIONMENTS.

235. State apportionment of school funds—The Commissioner of Education shall apportion the available current school fund among the counties on the first Monday of March and of October in each year, in proportion to the number of scholars of school age entitled to apportionment therein. No scholar shall be counted more than once in any county, which shall be in the district in which his parents or guardians reside, if such scholar has attended school and is entitled to apportionment therein. But no district shall be entitled to any portion of said fund that has not had at least six months of school term within the year, conducted pursuant to the provisions of this chapter, nor shall any district be entitled to any part of said fund for any pupil who has not attended school at last forty days within such year. (2993)

A district to be entitled to apportionment must not only have had a school taught the required time during the school year, which ends July 31st, but must also have made, through its teachers, the requisite term reports to the county superintendent, who, in turn, must have reported it to the state superintendent of public instruction on or before September 20th.

"Can the enrollment of evening schools, conducted by the regular corps of teachers, be reported for apportionment?" They can. There is nothing in the law requiring the apportionment to be made to day scholars only. (Hahn, p. 491.)

A ten months' term of one-half day sessions is not in compliance with the statute requiring a six months' term of full session, as a condition precedent to the right to receive a share of the current school fund. (Douglas, April 25, 1898.)

Note.—For further information as to the apportionment and distribution of

school funds by the state, see chapter 296, Laws of 1915, sections 213 to 219, inclusive, of this compilation.

Children in regular attendance at parochial or private schools who are permitted to receive instruction in manual training only for one or two hours in each of two days of every school week cannot be counted by the school district for apportionment. (Smith, May 25, 1915.)

236. **Payment of school apportionment**—Upon receiving a copy of such apportionment, the state auditor shall draw his warrant on the state treasury, payable to the state treasurer, for the amount due each county. The state treasurer shall apply such amount and any special state school aid due said county in his semi-annual settlement with each county named in the apportionment, and, if the amount due any county shall exceed the amount due from such county for state taxes, shall forthwith transmit to the county treasurer the amount of such excess. There is hereby annually appropriated from the current school fund the amount of such apportionments. (2994)

237. **Apportionment by county auditor**—The county auditor at the time of making the March and November tax settlement of each year shall apportion among the districts entitled thereto the amount apportioned from the current school fund, and the amount received from liquor licenses, fines, estrays, and other sources, belonging to the general school fund, upon the same basis provided for the state apportionment and such money shall be used only for the payment of teachers' wages; but no district shall receive any part of the money received from liquor licenses unless all sums paid for such licenses in such district are apportioned to the county school fund, and no district shall receive in any year from the apportioned fund, exclusive of special state aid, a greater amount than that appropriated by such district from its special and local one-mill tax for that year, unless such district has levied for such year the maximum amount allowed by law for school purposes. The auditor shall include in such apportionment all amounts received from special state aid to schools. (2995)

Any delay which does not affect the apportionment may be disregarded, but the absence of reports justifies the auditor in leaving districts out of the apportionment whose reports are not in. (Cole, p. 111.)

If it appeared that the district had made ample provision for a school as required by law, they would be entitled to their apportionment if their failure to maintain the school was due to no fault of theirs, as the prevalence of diphtheria. (Clapp, July 9, 1888.)

Moneys withheld from districts pursuant to the last proviso in this section may be distributed among such districts upon a proper basis, as have complied with the requirements of the law in such respects. (Child, November 26, 1895.)

238. **Apportionment to schools in new districts**—Any district which for the first year after its organization has made provision for a four-months school by the levy of a sufficient tax, and has maintained a legal school for one month, shall receive its share in the first succeeding apportionment, in proportion to its actual enrollment. Such enrollment shall be reported as in other cases, and the number of pupils so returned shall be included by the state superintendent and the county auditor in their apportionment. (2996)

239. **Report of county apportionment, etc.**—The county auditor, on the first Wednesday after such apportionment, shall report to the state superintendent the amount apportioned to each district, the sources from which such money was received, the aggregate number of pupils in the county, and the number of districts sharing in the apportionment. He shall also, immediately after the qualification of the county superintendent, report to the state superintendent his name and postoffice address. (2997)

240. **Funds from fines and penalties**—School funds are also received from liquor licenses and from fines and penalties under the provisions of the following sections of the General Statutes of 1913, to-wit: 3153, 3173, 3174, 3323, 4406, 4994, 5021, 5028, 5112, 5804, 5806, 6040, 6278, 8930.

## CHAPTER IX.

### STATE AID TO PUBLIC SCHOOLS.

241. State aid to schools—For the purpose of aid to public schools, there shall be established the following funds:

(a) The endowment fund, which shall consist of the income from the permanent school fund.

(b) The current school fund, which shall consist of the amount derived from a state one mill tax.

(c) The special state aid fund, which shall consist of the sums appropriated by the legislature for special aid to public schools or departments in the schools. (3022)

242. Same; semi-annual distribution of the endowment fund—The endowment fund shall be distributed semi-annually by the state board of education to school districts whose schools have been in session at least seven months, in proportion to the number of scholars of school age who have attended school at least forty days during the preceding year. (3023)

243. Same; distribution of the current school fund—The current school fund shall be distributed on the same basis and at the same time as the endowment fund except such part as the state auditor on the recommendation of the State Board of Education shall set aside from the current school fund each year for distribution with the special state aid fund. (3024)

244. Same; distribution of special state aid fund—The State Board of Education shall distribute the special state aid fund, and any other sums which may be appropriated by the state for distribution with the special state aid fund, in such manner and upon such conditions as will enable school districts to perform efficiently the services required by law, and to further the educational interests of the state. To this end the said board shall have power to fix reasonable requirements for receiving and sharing in the state aid provided that in no case shall teachers' salaries be made a requirement for such aid. Public schools of any district receiving or seeking to receive special state aid shall at all time be open to the inspection of the State Board of Education, or its duly authorized agents, and the accounts of any such district shall be open to inspection by the public examiner upon request of said State Board of Education. (3025)

245. Same; limitation of amount of state aid—From and after the passage of this act there shall be distributed and paid to the various school districts of the state entitled to receive special state aid under the provisions of any existing law or laws, each year, except as otherwise provided in section 2 hereof, 90 per centum of the amounts which they would be respectively entitled to receive as special state aid under said law or laws, to be determined and paid as therein provided, which amounts shall be received in full payment and discharge of all obligation of the state to pay special state aid for such year.

State aid for teacher training in high schools and state aid for the tuition of non-resident high school pupils shall be distributed and paid in the amounts now provided in chapter 467, Laws 1921.

If the amount appropriated for the payment of said special state aids shall be insufficient in any year to pay the same as herein provided in full, the state auditor shall transfer from the current school fund an amount sufficient, together with the amount so appropriated for said year, to pay said special state aids as herein provided in full.

Provided, however, that not more than \$500,000 shall be so transferred from the current school fund in any one year.

If the amount appropriated and the amount transferred, as provided in section 3 hereof, shall be insufficient in any year to pay said special state aids as herein provided in full, the same shall be equally prorated among



the school districts entitled to receive such aids, and the pro rata amounts so received shall be accepted as payment in full of all obligation of the state to pay said aids for such year. (Chapter 396, Laws 1927.)

246. Same; purposes of special state aid—State aid from the special state aid fund and also any other moneys set apart for use with the special state aid fund shall be for the following named purposes:

(1) To assist in providing equal educational opportunities for all the school children of the state.

(2) To assist in establishing certain generally accepted minimum standards for all the public schools of the state.

(3) To assist school districts whose tax levies for maintenance are exceptionally high.

(4) To stimulate educational progress by grants of state aid for superior efficiency and high standards and for desirable educational undertakings not yet generally established.

(5) To provide for the maintenance of teacher training departments in high schools. (3027)

247. Same; state aid for equalizing educational opportunities—(1) For transportation of pupils in consolidated school districts, the state shall reimburse such districts at rates to be determined by the State Board of Education, provided that no consolidated school district shall receive annually more than four thousand dollars (\$4,000) for the transportation and board of pupils for each consolidated school in such district. Provided further that state aid for transportation shall not be withheld from any consolidated district by reason of the requirements of section 10 of chapter 238 of the Laws of 1915. (Industrial work.)

(2) For school buildings in consolidated school districts, the state shall pay forty (40) per cent of the cost of construction of each such building, but not to exceed six thousand dollars (\$6,000) to any such school district for each such school building.

(3) All the provisions of this act relating to state aid to counties shall be equally applicable to the unorganized territory of any county and also to all school districts of ten or more townships.

(4) For the tuition of non-resident high school pupils, the state shall pay to the school district furnishing such high school instruction at the rate of seven dollars (\$7.00) per school month, or major fraction thereof, for each such non-resident pupil, for not to exceed ten (10) months in any school year; provided (1) that high school instruction shall mean instruction for pupils who have completed the eight years of the elementary course; (2) that such tuition shall be paid by the state only insofar as any pupil's residence district does not give high school instruction, but this provision shall not apply to non-resident high school pupils residing in unorganized territory; and (3) that the state apportionment for any such non-resident high school pupils shall be paid to the school district in which such non-resident pupils attend a high school. Provided, that in all cases where such non-resident pupil is a resident of a state aided rural district, the amount provided by the provisions of this act shall by the disbursing board be deducted from the aid otherwise going to such rural district in all cases where such aided rural school does not levy at least four (4) mills or more upon the property of such district for school purposes.

(5) Any school district may receive aid for the purchase of library books on the basis of twenty dollars (\$20.00) for each teacher employed with a maximum of forty dollars (\$40.00) for each school building in the district, provided the district appropriates a like amount for the same purpose.

(6) For assisting in providing for the school attendance of isolated pupils. The State Board of Education, at its discretion and under such rules as it may adopt, may assist school districts or the County Board of

Education for unorganized territory in any county in providing for the transportation or board of such children of school age as reside beyond reasonable walking distance from the nearest public school. To this end, the state board may grant to such school districts not to exceed fifty dollars (\$50) annually for each such pupil transported or boarded. (3028)

248. Same; state aid to assist in establishing minimum standards—

(1) For each graded elementary school of eight school years with a school year of at least nine months, the state shall pay a school district five hundred dollars (\$500) annually.

(2) For each graded elementary school of six school years with a school year of at least nine months, the state shall pay a school district four hundred dollars (\$400) annually.

(3) For each ungraded elementary school with a school year of at least eight months, the state shall pay a school district one hundred fifty dollars (\$150.00) for each first grade teacher employed and one hundred dollars (\$100.00) for each second grade teacher employed; for a school year of at least seven months, the state shall pay three-quarters of the aid provided for a school with a school year of eight months; provided that the total of such aid for an ungraded elementary school shall in no case exceed three hundred dollars (\$300.00).

(4) For each four-year high school with a school year of at least nine months, the state shall pay a school district nine hundred dollars (\$900) annually.

(5) For each high school department with a school year of at least nine months, the state shall pay a school district annually two hundred dollars (\$200) for one (1) high school teacher; four hundred dollars (\$400) for two (2) high school teachers, and six hundred dollars (\$600) for three (3) or more high school teachers.

(6) For each junior high school with a school year of at least nine months, the state shall pay a school district four hundred dollars (\$400) annually.

(7) For each senior high school with a school year of at least nine months, the state shall pay a school district six hundred dollars (\$600.00) annually. (3029, as amended by chapter 412, Laws 1925.)

249. Same; to assist school districts with high tax levy—School districts which receive aid under the provisions of this section will be limited to those whose tax levy for maintenance only exceeds twenty (20) mills. To any school district in which a tax levy of twenty (20) mills does not yield the equivalent of forty dollars (\$40) for each pupil who has attended the public school of such district at least forty (40) days during the school year, the state shall pay as supplemental aid an amount which, together with the proceeds of a twenty (20) mill tax will give each such school district the equivalent of forty dollars (\$40) for each such pupil. In school districts maintaining only ungraded elementary schools, if a twenty (20) mill tax levy does not raise the equivalent of six hundred dollars (\$600) for each teacher employed for at least seven (7) months during the school year, then the State Board of Education at its discretion may grant to such school district an amount, which together with the proceeds of a twenty (20) mill tax levy, will give such school district the equivalent of six hundred dollars (\$600) for each teacher employed as herein provided, but such state aid shall in no case exceed the equivalent of two hundred dollars (\$200) for each such teacher employed, but shall be in addition to all other state aid, including supplemental aid as otherwise provided in this section. Provided, in unorganized territory and in common school districts of ten or more townships, each full or fractional township shall be treated as a unit equivalent to a school district for each of the purposes of this act. (3030)

250. Same; state aid to stimulate educational progress—(1) For established undertakings, state aid shall be granted to school districts on the basis of the number of special teachers employed, enrollment in classes and type of work done, and all under such rules as may be established by the State Board of Education. In school districts maintaining junior and senior high schools, such state aid shall be granted for either a junior or senior high school, but not for both.

a. For agriculture state aid to any school district for each school within the district maintaining such work shall not exceed eight hundred dollars.

b. For general industrial training state aid to any school district for each school within the district maintaining such work shall not exceed five hundred dollars.

c. For home training state aid to any school district for each school within the district maintaining such work shall not exceed five hundred dollars.

d. For commercial training state aid to any school district for each school within the district maintaining such work shall not exceed five hundred dollars.

e. For special classes for defectives. Under such rules as the State Board of Education may establish, the state shall pay annually to any school district for the education of defective children the following amounts:

(a) For deaf children, two hundred fifty dollars (\$250) for each such child, who is enrolled in a day school and who is a resident of a district maintaining such school, and four hundred dollars (\$400) for each child who is a non-resident of the district maintaining such school and whose resident district does not maintain such school; the additional one hundred and fifty dollars (\$150) to be paid for board and room of such non-resident child.

(b) For blind children, three hundred dollars for each such child.

(c) For subnormal children, one hundred dollars for each such child.

(d) For children with defective speech, not to exceed fifteen hundred dollars for each teacher engaged exclusively in this work.

(e) For crippled children, two hundred fifty dollars for each such child.

(2) For educational work not yet generally established.

a. For stimulating progress and achievement in ungraded elementary schools, the State Board of Education shall adopt standards for a superior ungraded school. Such standards shall be based upon the length of the school term, qualification of teachers, regular school attendance and a curriculum adapted to present day needs, including health work. School districts meeting these standards shall receive, in addition to all other state aid, not to exceed one hundred twenty-five dollars for each such school maintained.

b. For evening schools for persons over sixteen years of age and not in attendance upon regular day schools, the state shall pay to any school district maintaining such schools in accordance with requirements established by the State Board of Education, one-half the salaries of all teachers who teach in such evening schools; and districts maintaining such evening schools shall also be entitled to state apportionment for all pupils of school age upon the same basis as that provided by law for day school pupils. (3031)

251. Same; aid for teacher training departments—For teacher training in high schools the State Board of Education is hereby authorized to establish rules and to determine the amounts of state aid to be granted to any school district for the maintenance of this work. Such state aid shall be determined upon the basis of one, two or three teacher departments,



respectively. For the maintenance of high school teacher training departments the State Board of Education may grant a total state aid of not to exceed two hundred twenty-five thousand dollars (\$225,000). (3032)

252. Same; authority of county board to provide funds—In all cases provided for in this act wherein state aid is made available for county use, the county board is hereby authorized to make appointments of persons for county service and to appropriate county funds for the purpose of maintaining such county educational work. (3033)

253. Same; manner of paying special state aid—The special state aid fund and all other sums made available by the legislature as special state aid to schools shall be paid in the following manner:

On or before the first day of October in each year, it shall be the duty of the Commissioner of Education to deliver to the state auditor a certificate in duplicate for each class of schools in each county of the state entitled to receive state aid under the provisions of this act. Upon the receipt of such certificate, it shall be the duty of the state auditor to draw his warrant upon the state treasurer in favor of the county treasurer for the amount shown by each certificate to be due to the several schools therein enumerated. The state auditor shall transmit such warrants to the county auditor together with a copy of the certificate prepared by the Commissioner of Education.

Upon receipt by the county auditor of such warrant and the certificate, it shall be the duty of the county auditor to credit the several school districts with the amounts stated in said certificate, when charging the county treasurer with the aggregate amount so received, and forthwith deliver to the county treasurer the said warrant or warrants. The funds so credited to the several school districts shall be paid to the treasurers thereof in the same manner now provided by law for the payment of school funds to school district treasurers. (3034)

254. Same; unused special state aid funds—Any unused available money from the special state aid fund shall be included with the endowment fund for distribution to state apportionment. (3035)

255. Same; to consolidated districts—Area required—To receive state aid as a consolidated school of class A or class B, as defined in this act, the consolidated districts must not contain less than twelve sections. Any existing school district having the area and meeting the requirements specified in this act, may be granted the rights and privileges of a consolidated school district upon formal application to the Commissioner of Education pursuant to resolutions adopted by a vote of not less than two-thirds of the full school board, accompanied by a plat prepared by the county superintendent of schools of the county in which the school is located. Provided that this act shall not affect the rights or status of any consolidated school district now organized. (2755)

256. Same; requirements of consolidated districts for receiving—(1) For receiving state aid for transportation, schools in consolidated districts shall be in session at least eight months in the year and be well organized. They shall have suitable school houses with the necessary rooms and equipment. The board in a consolidated school district shall arrange for the attendance of all pupils living two miles or more from the school, through suitable provision for transportation or for the boarding and rooming of such pupils as may be more economically and conveniently provided for by such means.

(2) Besides maintaining schools in consolidated districts conforming to the above requirements the school board may maintain other schools of not more than two departments, and receive state aid for these schools as provided for ungraded elementary schools. (2762)

A parent who transports his children more than two miles to and from school does not have a legal claim against the district for reimbursement. (Smith, September 5, 1917.)

257. Same; consolidated schools—Building and transportation aid—Consolidated schools shall receive annually the amount reasonably expended for the transportation of pupils, but not to exceed the amount provided for in section 7 of the state aid law.

In addition to the annual aid consolidated schools shall receive an amount to aid in the construction of buildings, equal to forty (40) per cent of the cost of such buildings, but no school shall receive more than a total of six thousand dollars (\$6,000) for aid in the construction of buildings. The annual aid and the aid for buildings shall be paid in the same manner as now provided by law for the payment of other state aid to public schools.

Every school located in a consolidated district shall be classified under one of the following heads:

(1) Ungraded elementary, (2) graded elementary, (3) four-year high school, (4) high school department, (5) junior high school or (6) senior high school, and every such school shall possess all the rights and privileges of the rank and class which it has attained and shall be entitled to state aid according to such rank and class. (2764)

258. Certain provisions of an act for promotion of vocational education, etc., by congress, etc., accepted.—The provisions of the act of congress of the United States entitled an act to provide for the promotion of vocational education; to provide for co-operation with the states in the promotion of such education in agriculture and the trades and industries; to provide for co-operation with the states in the preparation of teachers of vocational subjects; and to appropriate money and regulate its expenditures, and approved February 23, 1917, be and the same are hereby accepted, and the benefits of all funds appropriated under the provisions of such act are hereby accepted as provided in such act. (3041)

259. High school board designated as state board called for in congressional act.—The high school board is hereby designated the state board as provided in such act, and is charged with the duty and responsibility of co-operating with the federal board for vocational education in the administration of such act and is given all power necessary to such co-operation. The high school board is authorized to make such expenditures as it may deem necessary to carry out the provisions hereof from moneys available for the purposes of this act. In case a state board of education is created, such board shall have the powers and perform the duties with which the high school board is charged by the terms of this act. (3042)

260. State treasurer appointed custodian of funds—The state treasurer is appointed custodian of all funds for vocational education, as provided in such act, and is charged with the duty and responsibility of receiving and providing for the proper custody and proper disbursement of moneys paid to the state from the appropriations made under the provisions of such act. (3043)

261. What districts are to be entitled to federal moneys—Any school district maintaining a vocational school or department shall be entitled to Federal moneys under such act for the salaries of teachers of agricultural, industrial or home economics subjects by meeting the requirements fixed by the high school board and approved by the federal board for vocational education. Teacher training schools and departments shall be entitled to federal moneys for the preparation of teachers of agricultural, industrial or home economics subjects by meeting the requirements fixed by the high school board and approved by the federal board for vocational education for the preparation of such teachers. (3044)

262. How disbursements shall be made—All disbursements of federal and state moneys for the benefit of such teachers training schools or departments shall be made on the requisition of the high school board by the state treasurer or to the legally constituted authorities having custody of the moneys of such training schools or departments. All disbursements

of federal and state moneys for the benefit of such vocational schools and departments shall be made on the requisition of the high school board by the state treasurer to the treasurer legally qualified to receive and disburse the funds for the school districts establishing and maintaining such schools and departments as herein provided. (3045)

263. State treasurer to make report to receipts and disbursements—The state treasurer as custodian for vocational education shall make to the legislature at each biennial session a report of the receipts and disbursements of moneys received by him under the provisions of such act and the high school board shall make to the legislature at each biennial session a report of its administration of such act and the expenditure of money allotted to the state under the provisions of such act. (3046)

264. Promotion of vocational education—There shall be appropriated biennially a sum of not less than the amount to which the State of Minnesota is entitled under sections 3 and 4 of an act of congress of the United States, approved February 23, 1917, relating to the promotion of vocational education and for appropriations to the states for instruction in agriculture, trade, home economics and industrial subjects, and for the training of teachers of vocational subjects. (3037)

265. Same; State Board of Education to reimburse school district—Whenever any school district shall have established a vocational school or department in accordance with the rules and regulations established by the State Board of Education and the plan for vocational education adopted by that board and approved by the federal board for vocational education, the State Board of Education shall reimburse such school district for its expenditures for salaries of vocational teachers from federal and state funds available to an amount not to exceed three-fourths of the salaries of such vocational teachers, provided that in the event of joint federal and state funds not being sufficient to make such reimbursement in full, the State Board of Education shall pro rate the amount available to the various districts entitled to receive reimbursement. (3038)

266. Same; reimbursing institutions for training teachers—The State Board of Education shall reimburse institutions selected by it to train teachers of vocational subjects to an amount of not to exceed one-half of the expenditures made for such training by the said institutions, provided that no federal funds may be applied directly or indirectly to the purchase, erection, preservation or repair of any building or buildings or equipment, or for the purchase or rental of lands or for the support of any religious or privately owned school or college. (3039)

267. Same; appointment of officials and assistants—The high school board shall have authority to appoint such officials or assistants as may be necessary to administer the federal act and chapter 491, Session Laws of Minnesota for 1917, to fix the salaries of such persons appointed, and to make expenditures from the state funds appropriated under the provisions of this act for the salaries and necessary expenses of such officials and assistants, or to use a portion of such funds in matching federal funds available for the same purpose. (3040)

268. State board for vocational education—There is hereby established, under the direction and control of the state board for vocational education, a division for the training and instruction of persons whose capacity to earn a living has in any way been destroyed or impaired through industrial accident or otherwise: provided, that at the time when the accident or disability was incurred they were residents or citizens of the State of Minnesota. The said board shall in its regular reports to the legislature describe in detail the work of the division and may from time to time issue bulletins containing information relative thereto. (2983)

269. Appointment and salaries of employes—The employes of the said division shall be appointed and their salaries determined by the said board. The division shall be furnished with suitable quarters in the state capitol,



and the board may expend for salaries and other necessary expenses of such division such amounts as shall be appropriated by the legislature. (2984)

270. **Plan of co-operation to be formulated**—The state board for vocational education and the department of labor and industries, or any agency which may succeed it in the administration or supervision of the workmen's compensation act, shall formulate a plan of co-operation with reference to the work of said division. Such plan shall be effective only when approved by the governor of the state. (2985)

271. **To aid incapacitated persons, and co-operate with U. S. government.**—The said division shall aid persons who are incapacitated as described in section one in obtaining such education, training, and employment as will tend to restore their capacity to earn a livelihood. The division may co-operate with the United States government, and as a part of such co-operation may extend the benefits of this act to any civil employe of the United States disabled while in the performance of his duty, without regard to the residence of citizenship of such employe, if in the judgment of the board the benefits offered by the federal government are sufficient to compensate for the cost. The division may of its own accord, establish or maintain, or in co-operation with local boards of education, assist in establishing or maintaining, such courses as it may deem expedient, and otherwise may act in such manner as it may deem necessary to accomplish the purposes of this act. (2986)

272. **State aid from gross earnings tax**—Whenever the properties of any school district in this state is made up, to the extent of at least 20 per cent in value, of property which is exempt from local taxation because taxes thereon are paid into the state treasury under the provisions of the gross earnings tax law, then such district shall be entitled to receive from the state treasury, in addition to all other state aid, not to exceed such an amount annually as would be produced by computing a tax of one-third of the current local rate for school purposes upon the valuation of the property in such district so exempt from local taxation, but in no case shall any state high school, high school department or graded elementary school receive in excess of the amount that would be produced by a 14-mill levy upon the full and true value of all railroad property exempt from local taxes in such district, nor shall any common school district maintaining one only ungraded elementary school of not less than two nor more than four rooms receive in excess of the amount that would be produced by a 7-mill levy upon the full and true value of all railroad property exempt from local taxes in such district, provided, however, that in all such districts where the valuation of property so exempt from local taxation is four million dollars (\$4,000,000.00) or more, then the amount which such district shall receive under the provisions of this act shall be ascertained by computing a tax at one-sixth of the current local rate instead of one-third as in other cases.

Provided, that the amount which any school district may receive under this act shall not exceed such a sum as added to all other sources of income will produce for each pupil, for maintenance alone, an average of \$100.00 for districts maintaining a high school, a high school department or a graded elementary school and an average of \$75.00 for common school districts maintaining one only ungraded elementary school of not less than two nor more than four rooms.

And provided further that no district shall be entitled to aid under this act unless it has a current local school tax levy, for maintenance alone, of at least 35 mills and maintains succeeding levies of at least 40 mills for the same purpose, except common school districts maintaining one only ungraded elementary school of not less than two nor more than four rooms, having a current local school levy of at least a 20-mill tax for maintenance alone. (Chapter 338, Laws 1927.)

## CHAPTER X.

### SCHOOL TEXT-BOOKS

273. Text-books—Persons, companies or corporations to comply with certain conditions—Before any person, company or corporation shall offer any school text-book for adoption, sale or exchange, in the State of Minnesota, said person, company or corporation shall comply with the following conditions:

First. File a copy of such text-book in the office of the state superintendent of public instruction, with a sworn statement of the usual list price, the lowest wholesale price, and the lowest exchange price, based on five-year adoption periods, at which said book is sold or exchanged for an old book in the same subject of like grade and kind, but a different series, to any school board, school corporation or school text-book commission anywhere in the United States.

Second. File with the state superintendent of public instruction a written agreement (1) to furnish said book or books to any school board in the state of Minnesota at the said lowest prices so filed, and to maintain said prices uniformly throughout the state. (2) To reduce such prices automatically in Minnesota whenever reductions are made elsewhere in the United States, and guarantee that at no time shall any book so filed by said person, company or corporation be sold in Minnesota at a higher price than is received for such book elsewhere in the United States. (3) That all text-books offered for sale in Minnesota shall be equal in quality to those deposited in the office of the state superintendent of public instruction as regards paper, binding, print, illustrations, subject-matter and all points that may affect the value of said text-books.

Third. File with the state superintendent of public instruction a surety bond of not less than two thousand (\$2,000) and not more than ten thousand dollars (\$10,000), said bond, in an amount to be fixed by the state superintendent of public instruction, shall run to the state of Minnesota, and be approved by the attorney general. Upon compliance with the foregoing conditions, said person, company or corporation shall be licensed to sell text-books in the state of Minnesota. (3048)

274. Same; failure to comply—Duties of county superintendent—If in any case said person, company or corporation shall furnish to any district books inferior in any particular to the samples on file with the state superintendent or charge a higher price than was filed with the state superintendent, or than the same are sold elsewhere in the United States, then it shall be the duty of the county superintendent on written complaint filed with him by the school board of such district or of the city superintendent of a district having a state high school, or of the principal of schools of a district having a state graded school, to inform the state superintendent of the failure of said person, company or corporation to comply with the terms of his contract. The state superintendent shall thereupon notify the said person, company or corporation of said complaint, and if the said person, company or corporation shall disregard the notification and fail to comply immediately with the terms of agreement filed with the state superintendent, then the bond of said person, company or corporation shall be forfeited and the attorney general shall upon written request of the state superintendent proceed to collect the full amount of the bond of said person, company or corporation. (3049)

275. Same; books to be chosen from list—Whenever the publisher shall prepare an abridged or special edition of any of his books listed with the state superintendent and shall supply such special edition elsewhere at a lower wholesale price than the wholesale price scheduled with the state superintendent, the publisher must agree to furnish such special edition at the wholesale price at which it is furnished elsewhere, so long as it is supplied at the said lower price anywhere outside of Minnesota; and it shall

be understood that the bond given by the publisher shall cover this provision as to special edition. In case an action is brought upon such bond, the state, if successful, shall recover the full amount of the bond, which amount shall be paid into the state school fund. (3050)

276. **Free text-books**—The school board of any school district shall, when directed by a vote of the district, or when the board deems it advisable, provide for the free use of school text-books by the pupils of their school or schools, or provide for the sale of them to pupils at cost. But no such adoption or contract shall be for less than three (3) or more than five (5) years, during which time such books adopted shall not be changed. (3051)

277. **Same; proposition to be submitted to voters of the district**—Whenever five or more legal voters of any common school district shall petition the school board to submit the question of providing free text-books to pupils attending its schools, it shall be the duty of such board to submit the same to the legal voters of such district. Such question may be submitted at a special meeting by giving ten days' notice thereof, or at any annual meeting. But in any case the notice of such meeting shall call attention to the fact that such question will be submitted, and in case a majority at such meeting shall vote in favor of such free text-books, it shall be the duty of the board to provide the same. (3052)

278. **School boards to have authority to purchase**—The school boards of each school district shall have authority to purchase all necessary books for indigent pupils and pay for the same out of the funds of the district. (3053)

As to powers of boards of special districts over text-books, see 115 M. 222.

279. **Attempted combinations illegal**—Duty of attorney general—If at any time any publisher shall enter into an understanding, agreement or combination to control the prices or to restrict competition in the adoption or sale of school books, then the attorney general shall institute and prosecute legal proceedings for the forfeiture of the bond of said publisher and for the revocation of his license to sell school books in this state, and each and every contract made by said publisher under this article shall thereupon become null and void at the option of the other parties thereto. (3054)

280. **Failure to place samples on file with state superintendent**—Penalty—Any publisher who shall sell or offer for sale or adoption in the state, school text-books of any kind without first placing samples of the same on file with prices and obtaining a license therefor from the state superintendent of public instruction shall be guilty of a gross misdemeanor, and, upon conviction, shall be fined not less than five hundred dollars and not more than two thousand dollars. (3055)

281. **State officials to be disinterested**—Penalty for violation—If the state superintendent of public instruction, his assistant or any employee connected with his office, or any member of any school board, who shall accept or receive any money, gift or any property, or favor whatsoever, from any person, firm or corporation offering for sale any text-books or any agent thereof, or from any person in any way interested in the sale of text-books, shall, upon conviction, be punished by a fine not exceeding five hundred (\$500) dollars or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment. (3056)

282. **Same; teachers, county and city superintendent to be disinterested persons**—Penalty for violation—Any teacher in the public schools of Minnesota or any county or city superintendent of schools, or any member of any school board or board of education, or any person or persons



connected with the public school system of Minnesota in any capacity, who shall in any way be interested in the profits, proceeds or sale of any school text-books used in the schools of Minnesota under his charge, or with which he is connected in any official capacity, shall be liable to a fine of not less than fifty dollars (\$50), nor more than two hundred dollars \$(200); provided, that this shall not apply nor have reference to royalties or profits received by a person from the sale of school books of which he is himself the author. (3057)

## CHAPTER XI.

### LIBRARIES.

#### PART I

#### LIBRARY DIVISION, DEPARTMENT OF EDUCATION

(Formerly Public Library Commission)

**Note:** The functions, powers and duties of the former State Public Library Commission are now exercised and performed by the State Board of Education and the sections of the statutes pertaining thereto thus, by reference, become a part of the general laws on education.

283. **Purchase of books—Office**—The commission may purchase collections of books, to be the property of the state, and used as a state circulating library, from which any town, village, or community may borrow under prescribed regulations. It shall divide such books into groups, to be known as traveling libraries, catalog and prepare them for circulation, and make rules for the conduct of its business, such as shall insure the care, preservation, and safe return of all books loaned. Suitable rooms shall be provided in the capitol for its use. (5658)

284. **To advise librarians, etc.**—Said commission without charge, shall give advice and instruction to the managers of any public library, and to the trustees or agents of any village, town, or community entitled to borrow from said collections, upon any matter pertaining to the organization, maintenance, or administration of libraries. It shall assist, by counsel, and encouragement, in the formation of libraries where none exist, and may send its members to aid in organizing the same, or in improving those already established. (5659)

285. **Statistics, reports, disbursements**—The commission shall keep statistics of the free public libraries of the state, and a record of the work done and the books loaned by it, and report the same to each regular session of the legislature, with a statement of its expenditures, the use made of the traveling libraries, and such other matters as it deems proper. Upon presentation of itemized vouchers, approved by at least three members of the commission, the state auditor shall issue his warrants for all proper expenditures hereunder. (5660)

#### PART II

#### COUNTY FREE LIBRARIES.

286. **County free libraries**—The board of county commissioners of any county in this state is hereby authorized to establish and maintain, at the county seat of any such county, or any other city to be determined by said board of county commissioners, a public library for the free use of all residents of the county, and may levy a tax not to exceed one mill on the dollar of all the taxable property outside of any city or village wherein a free public library is located, or which is already taxed for the support of any such library, the proceeds of which tax shall be known as the county library fund. (673)

287. If such county library be not otherwise established, the board of county commissioners, upon the petition of 100 freeholders of the county, shall submit the question of such establishment to the voters at the next county election. If a majority of the votes cast on such question be in the affirmative, the board of county commissioners shall establish the library, and levy a yearly tax for its support, within the limits fixed by section 1. (673)

288. If there is a free public library in the county, the board of county commissioners shall contract with the board of directors of such library, upon such terms and conditions as may be agreed upon between such boards, for the use of such library by all residents of the county, and may place under the supervision of the said library board the county library fund, hereinbefore provided for, to be spent by said board for the extension of the free use of said library to all residents of the county. Provided also that when there is more than one such free public library in the county the board of county commissioners may contract with one or all of such library boards for such free service if in its judgment advisable. (673)

289. If there is no free library in such county available for use as a central library of the county system, the board of county commissioners shall appoint a board of five directors; of said directors first appointed, two shall hold office for three years, two for two years, and one for one year, from the third Saturday of July following their appointment, the term of office being specified by the appointing power, and annually thereafter the board of county commissioners shall appoint one or two directors for the term of three years and until their successors qualify. The powers and duties of such board of directors shall be the same as those of a board of directors of any free public library in a city or village, and be governed by the provisions of sections 4918-4924 of chapter 33 of the General Statutes of Minnesota, 1913. (673)

### PART III.

#### PUBLIC LIBRARIES AND READING ROOMS

290. Establishment and maintenance—Tax—The governing body of any city or village may establish and maintain a public library and reading room or either of them for the use of its inhabitants, and by ordinance may set apart for the benefit thereof real estate or other public property of the municipality. In villages and cities of the second, third, and fourth classes, it may levy an annual tax of not more than three mills, and in cities of the first class of not more than one mill, on the dollar, of all taxable property therein, the proceeds of which tax shall be known as the library fund. (5661)

291. When established by vote—Existing libraries—If such library or reading room be not otherwise established, the governing body of the municipality, upon the petition of fifty free-holders thereof, shall submit the question of such establishment to the voters at the next municipal election. If two-thirds of the votes cast on said question be in the affirmative, the governing body shall establish the library or reading room, and levy a yearly tax for its support, within the limits fixed by § 5661. All public libraries and reading rooms heretofore established and now existing in cities or villages are continued, and all ordinances setting apart public property for their support are hereby confirmed. Nothing in this chapter shall be construed as abridging any power or duty in respect to libraries conferred by any city or village charter. (5662)

292. Directors—Term—Removal—When any such library or reading room is established, the mayor of the city or president of the village, with the approval of the council, shall appoint a board of nine directors, but

not more than one of whom shall at any time be a member of such governing body. One-third of the members shall hold office for one year, one-third for two years, and one-third for three years from the third Saturday of July following their appointment, the term of office of each being specified by the appointing power; and annually thereafter such mayor or president shall appoint three directors for the term of three years and until their successors qualify. Such mayor or president, by and with the consent of the council, may remove any director for misconduct or neglect. (5663)

293. **Vacancies—Compensation**—Vacancies in the board of directors shall be reported to the council, and filled by like appointment for the unexpired term. Directors shall receive no compensation for their services as such. (5664)

294. **Organization of board—Rules**—Immediately after appointment, such board shall organize by electing one of its number as president and one as secretary, and from time to time it may appoint such other officers and employees as it deems necessary. The secretary, before entering upon his duties, shall give bond to the municipality in an amount fixed by the directors, conditions for the faithful discharge of his official duties. The board shall adopt such by-laws and regulations for the government of the library and reading room and for the conduct of its business as may be expedient and conformable to law. It shall have exclusive control of the expenditure of all moneys collected for or placed to the credit of the library fund of the construction of library buildings, and of the grounds, rooms, and buildings provided for library purposes. But all moneys received for such library shall be paid into the city or village treasury, be credited to the library fund, be kept separate from other moneys of the municipality, and be paid out only upon itemized vouchers approved by the board. The board may lease rooms for library use, fix the compensation of employees, and remove any of them at pleasure. With the approval of the council the board may purchase grounds and erect a library building thereon. (5665)

295. **Non-residents—Contract to loan books—Tax**—Any board of directors may admit to the benefits of its library persons not residing within the municipality, under such regulations, and upon such conditions as to payment and security, as it shall by rule prescribe. Said board may also contract with the board of county commissioners of the county in which the library is situated or of adjacent counties, or with the village trustees or governing body of any neighboring town, city or village to loan books of said library, either singly or in traveling libraries, to the residents of said county, town, city or village, upon such terms as shall be agreed upon in such contract.

All such boards or officers shall have the power to contract with the board of directors of any free public library for the use of said library by the people of the county, town, city or village not having the use of a free library, upon the same terms and conditions as those granted to residents in the city or village where the library is located, and to pay such library board such an amount annually as may be agreed upon therefor, and such county, town, city or village board may establish a library fund by levying an annual tax of not over one mill on the dollar of all the taxable property outside of any city or village wherein a free public library is located or which is already taxed for the support of any such library. (5666)

296. **Directors now in office—Report**—The directors of any such library or reading room in office under existing laws shall so continue until the expiration of their terms, but their successors shall be appointed and vacancies filled under the provisions of this chapter. At the first regular meeting of the board following the third Saturday of July, in each year, the board shall report to the governing body of the municipality all amounts received during the preceding year, and the sources thereof, the amounts



expended, and for what purposes, the number of books on hand, the number purchased and loaned, and such other information as it deems advisable. A copy of such report shall be filed with the state library commission. But nothing in this section shall apply to libraries in cities of the first class. (5667)

297. **Title to property—Free use**—All property given, granted, conveyed, donated, devised, or bequeathed to, or otherwise acquired by, any municipality for a library or reading room shall vest in, and be held in the name of such municipality, and any conveyance, grant, donation, devise, bequest, or gift made to or in the name of any public library or library board shall be deemed to have been made directly to such municipality. Every library and reading room established under this chapter shall be forever free to the use of the inhabitants of the municipality, subject to such reasonable regulations as the directors may adopt. (5668)

298. **Gifts, etc.—Contracts**—With the consent of the governing body of any city or village, expressed by ordinance or resolution, and within the limitations of this chapter as to the rate of taxation, the library board may accept any gift, grant, devise, or bequest made or offered by any person for library purposes, or for the establishment, enlargement, or maintenance of an art gallery or museum in connection with its library, and may carry out the conditions of such donation. And the municipality in all such cases is authorized to acquire a site, levy a tax, and pledge itself by ordinance or resolution to a perpetual compliance with all the terms and conditions of the gift, grant, devise, or bequest so accepted. All ordinances adopted in reference to such donations prior to the taking effect of the Revised Laws are hereby legalized and confirmed. (5669)

299. **Malicious injury to books**—Every person who shall maliciously cut, tear, deface, soil, obliterate, break, or destroy a book, map, chart, picture, engraving, statue, coin, model, apparatus, specimen, or other work of literature, or object of art or curiosity, deposited in a public library, gallery or museum collection, fair or exhibition, shall be punished by imprisonment in the state prison for not more than three years, or in a county jail for not more than one year, or by a fine of not more than five hundred dollars, or by both. (10428)

## PART IV.

### SCHOOL LIBRARIES

300. **Maintenance of school libraries**—Every school district may provide library facilities as part of its school equipment, according to the standards of the State Board of Education. (3015)

301. **Same**—The school board of any school district may vote sufficient funds for the maintenance of the school library, appoint a librarian, and make rules for the use and management of the library. (3016)

302. **Same**—In cities and villages of less than two thousand people, not levying a tax for public library purposes, the school board may maintain a public library for the use of all residents of the district, and provide ample and suitable rooms for its use in the school building. (3017)

303. **Same**—The State Department of Education shall from time to time prepare and amend a list of books suitable for school libraries, including dictionaries and other books of reference, histories and works of biography, literature, political economy, agriculture, travel and science. (3018)

304. **Same**—Upon receiving from any district a certified statement, approved by the county superintendent showing the purchase of books specified and included in the list prepared under the foregoing section, the appointment of a librarian for each library and the making of proper provi-

sions for the care thereof, and for the free circulation of books suitable for circulation, the State Commissioner of Education shall furnish such district a requisition on the state auditor for one-half the purchase price, within the limitations of section 7 of the Laws of 1921, relating to state aid to public schools. (3019)

305. Same—Any school board may contract with the board of any approved county, city or village library to become a branch of said public library and to receive therefrom library books suited to the needs of the pupils in the school, and for the community, according to the standards established in the rules of the State Board of Education. In the event of such contract between the school board and the public library board, such school board may place in the public library such books belonging to the school library as may be more useful in the public library for students and the community, and such school board shall annually pay to such library board, the school library book fund and the state library aid to which such school district is entitled. All books purchased by such public library from funds provided by the school district or state school library aid shall be selected from the state list for school libraries.

In the event of the making of such contract, a librarian shall be employed who meets the standards of the State Board of Education and the school board and library board may jointly employ such librarian who may spend her time partly in the school and partly in the library. (3020)

306. Any school district may receive aid for the purchase of library books on the basis of twenty dollars (\$20.00) for each teacher employed with a maximum of forty dollars (\$40.00) for each school building in the district, provided the district appropriates a like amount for the same purpose. (3028)5

## CHAPTER XII

### COMPULSORY EDUCATION—CHILD LABOR

307. Attendance age—English language—Common branches—Requirements of school—Every child between eight and sixteen years of age shall attend a public school, or a private school, in each year during the entire time the public schools of the district in which the child resides are in session; provided, however, that no child shall be required to attend public school more than ten (10) months during any calendar year. In districts maintaining terms of unequal length in different public schools, this requirement shall be satisfied by attendance during the shorter term.

A school, to satisfy the requirements of compulsory attendance, must be one in which all the common branches are taught in the English language, from textbooks written in the English language and taught by teachers qualified to teach in the English language. A foreign language may be taught when such language is an elective or a prescribed subject of the curriculum, but not to exceed one hour in each day.

Such child may be excused from attendance upon application of his parent, guardian, or other person having control of such child, to any member of the school board, truant officer, principal, or city superintendent, for the whole or any part of such period, by the school board of the district in which the child resides, upon its being shown to the satisfaction of such board:

1. That such child's bodily or mental condition is such as to prevent his attendance at school or application to study for the period required; or
2. That such child already completed the studies ordinarily required in the eighth grade; or
3. That it is the wish of such parent, guardian or other person having control of any child, that he attend for a period or periods not exceeding in the aggregate three hours in any week, a school for religious instruction, conducted and maintained by some church or association of churches, or

any Sunday school association incorporated under the laws of this state, or any auxiliary thereof, such school to be conducted and maintained in a place other than a public school building, and in no event, in whole or in part, at public expense; provided that no child shall be excused under this section while attending upon instruction, according to the ordinances of some church, under and pursuant to subdivision 4 of this act.

Religious instruction for which a pupil may be excused from school under chapter 78, Laws 1923, cannot be given in a school building wherein public school is maintained. (Hilton, November, 1923.)

School board has authority in excusing children under chapter 78, Laws 1923, to make reasonable rules and regulations as to time of day and length of periods for not to exceed three hours in any week. (Hilton, September, 1923.)

Religious instruction for which a pupil may be excused from school under section 3080, G. S. 1923, cannot be given in a school building wherein school is being maintained. The fact that the particular room in which it is proposed to give the same is not used for school purposes does not alter the prohibition. (Hilton, November, 1923.)

4. That there is no public school within reasonable distance of his residence, or that conditions of weather and travel make it impossible for the child to attend; provided, first that any child fourteen (14) years of age or over, whose help may be required in any permitted occupation in or about the home of his parent or guardian may be excused from attendance between April 1st and November 1st in any year; but this proviso shall not apply to any cities of the first and second class; provided, second, that nothing in this act shall be construed to prevent a child from being absent from school on such days as said child attends upon instruction according to the ordinances of some church.

The clerk or any authorized officer of the public board shall issue and keep a record of such excuses, under such rules as the board may from time to time establish. (3080)

A school conducted by a parent for his children at home is a private school under the statute where the parent is competent, the equipment is sufficient and the instruction is in the same subjects and equal to that received in public schools. (Hilton, October 16, 1918.)

You ask for a construction of chapter 356, General Laws of 1911, and inquire as to age of children that parents are compelled to send to school.

You are advised that under the compulsory education law children between the ages of eight (8) and sixteen (16) years old must attend school.

The compulsory education law does not apply to children who have attained their sixteenth birthday. (Smith, Feb. 5, 1912.)

308. Same; duty of school board—It shall be the duty of each school board, through its clerk or other authorized agent or employee, to report the names of children between six (6) and sixteen (16) years of age, with the excuses, if any, granted in such district, to the principal teacher thereof, within the first week of school, and any subsequent excuses granted shall be forthwith reported in the same manner. The principal teacher shall provide the teachers in the several schools under his supervision with the necessary information for the respective grades of schools, relating to the list of pupils with excuses granted. On receipt of the list of such pupils of school age and the excuses granted, the principal teacher in a common, semi-graded or consolidated rural school shall report the names of children not excused, who are not attending school, with the names and addresses of their parents, to the county superintendent of schools within five days after receiving the clerk's report. The several teachers in state graded and state high schools shall report to the principal or to the city superintendent in like manner. (3081)

The provision in regard to children of six (6) years of age and between six and eight has reference simply to reports, and the law does not make it compulsory upon children under eight (8) years of age to be sent to school. (Smith, 1912.)

309. Same; duty of county superintendent, principal, teacher, etc.—The county superintendent of schools shall forthwith notify the parent, guardian or person in charge to send such child to school of whose unexcused absence he has been informed, and upon their neglect or refusal to comply with the notification, the county superintendent shall, upon receipt



of information of such non-compliance, notify the county attorney of the facts in each case. The principal of a graded school or the superintendent of a district maintaining a high school, or a city superintendent, shall proceed in like manner as provided in this section respecting the county superintendent of schools. Notification by registered mail shall be considered sufficient notice.

It shall be the duty of the principal, teacher or other person in charge of any private school to make reports at such times and containing such information as is herein required, respecting public schools. Such reports shall be made to the county superintendent of schools in whose county such private school is located, except where such private school is located in a city or in a district maintaining a high school, or a graded school, such reports shall be made to the city superintendent of schools or to the superintendent or principal of the high or graded school.

The county superintendent, city superintendent, principal of graded school or superintendent of a district maintaining a high school, as the case may be, shall make and file a criminal complaint against the person or persons neglecting or refusing to comply with the provisions of this act relating to the sending of a child or children to school, in any court in said county having jurisdiction of the trial of misdemeanors, and upon making of such complaint a warrant shall be issued and proceedings and trial be had as provided by law in cases of misdemeanor. All prosecutions under this chapter shall be conducted by the county attorney of the county wherein the offense is committed. (3082)

Either county superintendent, city superintendent or principal of graded school or truant officer may make complaint of violation of compulsory attendance law. Such complaint should be made before a justice of the peace. (Hilton, September, 1921.)

310. Same; parent guilty of misdemeanor for violation—Any person who shall refuse or fail to keep in school any child or children of whom he has legal charge or control, and who is required by law to attend school, when notified so to do as hereinbefore provided, and any person who induces or attempts to induce any child unlawfully to absent himself from school, or who knowingly harbors, or employs while school is in session any child unlawfully absent from school, shall be guilty of a misdemeanor, and shall be punished by a fine of not to exceed fifty (\$50) dollars, or by imprisonment in the county jail for not more than thirty (30) days. (3083)

311. Same; school officer, etc., guilty of violation—Any school officer, truant officer, teacher of a public or private school, graded school principal, city superintendent or county superintendent of schools refusing, wilfully failing, or neglecting to perform any duty imposed upon him by the provisions of this act shall be guilty of a misdemeanor, and upon conviction shall be punished for each offense by a fine not to exceed ten (\$10) dollars, or by imprisonment in the county jail not to exceed ten (10) days. All such fines, when collected, shall be paid into the county treasury for the benefit of the school district in which such offense is committed. (3084)

312. Same; duty of commissioner of labor—The commissioner of labor and his assistants shall assist in the enforcement of the provisions of this act and shall have authority to examine the excuses granted under this act, to make investigation into the causes for which excuses have been granted, and to revoke and cancel any that may be found to be granted without proper or sufficient cause. (3085)

313. School census, state aid withheld until taken—A complete school census shall be in taken in every school district, common, independent and special, between July 1 and October 1, of all children between six (6) and sixteen (16) years of age, which census shall show the name and date of birth of each person required to be enumerated, and the name and address of his parent, guardian or other person having charge. The school census shall be taken by the clerk or the school board, or by some other

person or persons appointed by the school board. Such person or persons taking such census shall make two extra copies thereof, shall certify to the school board the correctness of the enumeration and the information therein contained. The clerk shall retain the original in his office, send one copy to the county superintendent, and one copy to the principal teacher, principal or city superintendent of the school district, before the first day of school of each school year, or as soon as said census has been taken. The compensation for taking said school census and making the extra copies thereof shall be three (3) cents for each pupil enumerated, as shown by the census list, except that in cities the school board shall fix the compensation for this work. The superintendent of public instruction and high school board are authorized and directed to withhold the special state aid from any school district which shall fail in any year to take the school census until such census has been taken, as herein provided for. (3086)

314. Truant schools; juvenile court—Such boards may maintain ungraded schools for the instruction of children of the following classes between eight and sixteen years of age:

1. Habitual truants.
2. Those incorrigible, vicious or immoral in conduct.
3. Those who habitually wander about the streets or other public places during school hours, without lawful employment.

All such children shall be deemed delinquent and the board may compel their attendance at such truant school, or any department of the public schools, as the board may determine, and may cause them to be brought before the juvenile court of the county for appropriate discipline. (3088)

315. Truant officers; duties—The board of any district may appoint and remove at pleasure truant officers, who shall investigate all cases of truancy or non-attendance at school, make complaints, serve notice and process, and attend to the enforcement of all laws and school regulations respecting truant, incorrigible, and disorderly children and school attendance. Whenever any truant officer learns of any case of habitual truancy or continued non-attendance of any child hereby required to attend school, he shall immediately notify the person having control of such child to forthwith send to and keep him in school. He may arrest without warrant and take to school any such child, and shall act under the general supervision of the board, or, when directed by the board, under that of the city or district superintendent.

He shall transmit annually on or before the first day of July, each year, to the state superintendent of public instruction, a report of the number of cases of truancy and non-attendance investigated by him and the disposition made in each case. Such officer shall receive a salary fixed by the board appointing him, but no fees. (3087)

316. Child labor prohibited during school terms—No child under fourteen (14) years of age shall be employed, permitted or suffered to work at any time, in or in connection with any factory, mill or workshop, or in any mine; or in the construction of any building, or about any engineering work; it shall be unlawful for any person, firm or corporation, to employ or exhibit any child under fourteen (14) years of age in any business or service whatever, during any part of the term during which the public schools of the district in which the child resides are in session, except pursuant to consent of the mayor or president of the council of the village, for participation by children in theatrical exhibitions or concerts, as provided in section 10 hereof. (4094)

A child may not be employed during a school term even though the schools are closed because of an epidemic. (Hilton, Dec. 9, 1918.)

317. Same; children between fourteen and sixteen; when may be employed—It shall be unlawful for any person, firm or corporation to employ

any child over fourteen years of age, and under sixteen years of age, in any business or service whatever, during any part of the term during which the public schools of the district in which the child resides are in session, unless the employer procures and keeps accessible to the truant officer of the town or city and to the commissioner of labor, assistant commissioner of labor, factory inspectors and assistants, an employment certificate as herein prescribed and a list of all such children employed. On termination of the employment of a child, such certificate shall be forthwith surrendered by the employer to the official who issued the same. (4095)

318. Same; employment certificates, when and how issued—An employment certificate shall be issued only by the superintendent of schools, or by someone authorized by him so to do, or, where there is no superintendent of schools, by the chairman of the school board or the chairman of the board of education, or by a person authorized by such chairman; provided, that no superintendent of schools, member of the school board or board of education or other person authorized, as aforesaid, shall have authority to issue such certificates for any child then in or about to enter his own employment or the employment of a firm or corporation of which he is a member, officer or employee. (4096)

319. Same; employment certificate; terms of issue—The person authorized to issue an employment certificate shall not issue such certificate until he has received, examined, approved and retained in his possession for the inspection of the public, the following papers duly executed: (1) The school record of such child, properly filled out and signed by the principal of the school which the child last attended, and if there is no principal, then by the teacher of such child in said school which shall be furnished on demand to a child entitled thereto. (2) A duly attested transcript of the birth certificate, filed according to law with the officer charged with the duty of recording births which shall be conclusive evidence of the birth of such child. (3) The affidavit of the parent or guardian or custodian of the child, showing the place and date of birth of such child, but such affidavit shall not be required unless the last mentioned transcript of the certificate of birth cannot be produced; which affidavit must be taken before the officer issuing the employment certificate, who is hereby authorized and required to administer such oath and shall not demand or receive a fee therefor. Such employment certificate shall not be issued until such child has personally appeared before and been examined by the officer issuing the same and until such officer shall, after making an examination, make and retain for inspection by the public, a statement, that, in his opinion, the child is fourteen years of age or upwards, and until such officer shall have received a certificate from a reputable practicing physician duly designated for such purpose by the school board affirming that the child has reached the normal development of a child of its age, and is in sound health and is physically able to perform the work which it intends to do. Every such employment certificate shall be signed in the presence of the officer issuing the same, by the child in whose name it is issued, and shall only be issued to children who have completed the studies taught in the common schools of the district in which they reside or, a parochial or private school in which the curriculum is equal to the common schools of the district; provided, however, that no child shall be granted such certificate who is not able to read and write simple sentences in the English language. (4097)

320. Same; employment certificate to describe child—Such employment certificate shall state the date and place of birth of the child, and describe the color of the hair and eyes and height and weight and any distinguishing facial marks of such child, and that the papers required by the preceding section have been duly examined, approved and retained for inspection by the public and that the child named in such certificate has appeared before the officer signing the certificate and been examined. (4098)



321. School officers to report to commissioner of labor—The superintendent of schools and chairman of school boards and of the boards of education, shall transmit between the first and tenth day of each month to the office of the commissioner of labor of the state a list of the names of the children to whom certificates have been issued. The report shall give the date of issuing the certificate and the date of expiration; the age and sex of the child; the name of the employers and the nature of the occupation the child is permitted to engage in, and any one failing to transmit the list herein provided for, shall be guilty of a misdemeanor. (4099)

322. Hours of labor of child under sixteen—No person under the age of sixteen years shall be employed, or suffered or permitted to work at any gainful occupation more than forty-eight hours in any one week, nor more than eight hours in any one day; or before the hour of 7:00 o'clock in the morning or after the hour of 7:00 o'clock in the evening. Every employer shall post in a conspicuous place in every room where such minors are employed, a printed notice stating the hours required of them each day of the week, the hours of commencing and stopping work, and the hours when the time or times allowed for dinner or for other meals begin and end. The printed form of such notice shall be furnished by the commissioner of labor of the state, and the employment of any minor for longer time in any one day so stated, or between the hours of 7:00 o'clock in the evening and 7:00 in the morning, shall be deemed a violation of this section. (4100)

323. Violation of law; penalties—Whoever employs a child under sixteen years of age, and whoever, having under his control a child under such age, permits such child to be employed in violation of section 1, 2, or 7 of this act, shall, for such offense, be fined not less than \$25.00 nor more than \$50.00; and whoever continues to employ any child in violation of any of said sections of this act after being notified by a truant officer or commissioner of labor of the state, shall for every day thereafter, that such employment continues, be fined not less than \$5.00 nor more than \$20.00 additional for each day that such employment continues. A failure to produce to a truant officer or any official of the labor department, any employment certificate or list required by this act shall be prima facie evidence of the illegal employment of any person whose employment certificate is not produced, or whose name is not so listed. Any corporation or employer retaining employment certificates in violation of section 2 of this act shall be fined \$10.00. Every person authorized to sign the certificate prescribed by section 5 of this act, who knowingly certifies any false statement therein shall be fined not more than \$50.00. (4101)

324. Powers of truant officers—Officials of the labor department and the truant officers may visit all factories, mills, workshops, mines, mercantile establishments and all other places where labor is employed and ascertain whether any minors are employed contrary to the provisions of this act, and they shall report any case of such illegal employment to the school superintendent or to the chairman of the school board or board of education and to the commissioner of labor of the state. Officials of the labor department and truant officers may require that the employment certificates and lists provided for in this act of minors employed, shall be produced for their inspection. Complaints for offenses under this act may be brought by any official of the state labor department, and any one who shall refuse to allow visitation in this section provided for, shall be guilty of a misdemeanor. (4102)

325. Terms of employment of children under 16—That no children under the age of sixteen (16) years shall be employed at sewing belts, in any capacity whatever; nor shall any children adjust any belt to any machinery; they shall not oil, or assist in oiling, wiping or cleaning machinery, they shall not operate or assist in operating circular or band saws, wood

shapers, wood jointers, planers, sand paper or wood polishing machinery, emery or polishing wheels used for polishing metal, wood turning or boring machinery, stamping machines in sheet metal and tinware manufacturing, stamping machines in washer and nut factories, operating corrugating rolls, such as are used in roofing factories, nor shall they be employed in operating any steam boiler, steam machinery, or other steam generating apparatus, or as pin boys in any bowling alleys, they shall not operate, or assist in operating dough grates, or cracker machinery of any description; wire or iron straightening machinery, nor shall they operate, or assist in operating rolling mill machinery, punches or shares, washing, grinding or mixing mill or calendar rolls in rubber manufacturing; nor shall they operate, or assist in operating laundry machinery; nor shall they be employed in any capacity in preparing any composition in which dangerous or poisonous acids are used, and they shall not be employed in any capacity in the manufacturing of paints, colors or white lead; nor shall they be employed in any capacity whatever in the manufacture of goods for immoral purposes, or in any other employment dangerous to their lives, or their health or morals; nor in any theatre, concert hall, saloon, or place of amusement. Provided that this section shall not apply to the employment of any child as a singer or musician in a church, school or academy, or in teaching or learning the science or practice of music; or as a musician in any concert, or in a theatrical exhibition with the written consent of the mayor of the city, or the president of the council of the village, where such concert or exhibition takes place. Such consent shall not be given at any time for any child, local or transient, under ten years of age, nor in any case unless written application be made to the officer empowered to give such consent at least seventy-two (72) hours previous to any performance for which such consent may be given. Such application and the consent based thereon shall specify the name of the child, its age, and the names and residence of its parents and guardians, the nature, kind, duration and number of performances desired or permitted, together with the places and character of the exhibition. The mayor of the city, or president of the council of the village, may grant such consent, and shall at least forty-eight (48) hours before the first performance or exhibit forward to the commissioner of labor and to the secretary of the Minnesota child labor committee, a notice of said application and consent; and if it shall appear to such commissioner or secretary, or assistants, that such consent is in violation of any existing law, or that the character of the performance is such as to be dangerous to the life, or limb, or injurious to the health or morals of such child, then the commissioner of labor shall have power to suspend the operation of such consent pending investigation, and shall have power upon such investigation to revoke such consent. The applicant shall be promptly notified of any suspension or revocation of a permit, and of the time and place of any proposed investigation, and shall have the right to appear at such investigation and be heard. If a permit be revoked for any reason other than the unsuitableness of the proposed place, the child for whom said permit is requested shall not be permitted to appear in the proposed exhibition at any point within this state for a period of one year thereafter; and the fact that a permit may be thereafter granted by a mayor or president of the council for such child to appear in such exhibition shall not be a bar to a prosecution for violation of this act. But no such consent shall be construed to authorize any violation of paragraphs one, three and four of section 4939, Revised Laws of 1905; nor shall females under sixteen (16) years of age be employed in any capacity where such employment compels them to remain standing constantly. Provided, that in any action brought against an employer of any child under sixteen (16) years of age on account of injuries sustained by the child while so employed, if the employer shall have obtained, and kept on file in the like manner as herein provided for employment certificates, an affidavit of the parent or guardian, stating in substance that the child is not less than sixteen (16) years of age, such employment shall not be deemed a violation of this act. Any person employing any child in violation of the provisions of this section shall be guilty of a misdemeanor. (4103)

326. Boys under 18 not to be employed in certain occupations—No boy under the age of 18 years shall be employed or permitted to work as a messenger for a telegraph or messenger company in the distribution, transmission or delivery of goods or messages before 5 o'clock in the morning or after 9 o'clock in the evening of any day; and no girl under the age of 21 years shall be thus employed at any time. Any person employing any child in violation of the provisions of this section shall be guilty of a misdemeanor. (4104)

327. Physician's certificate of fitness—In case any child appears to be unable to perform the labor at which he or she is employed, the officials of the labor department or truant officers, shall require the employer of such child to procure a certificate from a reputable practicing physician duly designated for such purpose by the school board, affirming the physical fitness of the child for such work, and a child as to whom such certificate can not be obtained shall not be employed. Any person refusing to produce the certificate herein required upon demand, or who shall employ a child when a certificate has been procured stating that such child is physically unable to work, shall be guilty of a misdemeanor. (4105)

328. Relief for indigent children of school age—Every board of education or school board of any school district shall investigate or cause to be investigated, by a truant officer or other authorized officer, all cases reported to it or coming to its knowledge of any child within its jurisdiction required by law to attend school that it is claimed to be unable to do so by reason of the fact that the services of such child are required for the support of himself or herself, or to assist in the support or care of others legally entitled to his or her services, such person or persons being unable to support or care for themselves, and when such Board of Education, or school board shall report to the county auditor of the county in which the school district is situated the facts as ascertained by them and that such relief is necessary, and thereupon the county board may after investigation furnish such relief as will enable the child to attend school during the entire school year, such relief to be furnished by such county board from the poor fund of such county, and the board of education or school board of the school district shall furnish for the use of such child the necessary text books free of charge. (3090)

329. Same; duty of truant officer and of teacher—The truant officer or other authorized officer shall notify the teacher to whom any child receiving aid under the provisions of this act may be assigned, and it shall be the duty of the teacher having charge of such child to report monthly to the board of education, or the school board of the school district through the Superintendent of Schools, the progress such child is making in his or her school work, and the record of attendance, together with such other information as may be deemed necessary. Said truant officer or other authorized officer, shall receive the same compensation for the time engaged under the provisions of this act as he receives for similar services performed by him and shall be paid in the same manner. (3091)



## CHAPTER XIII.

### SCHOOL ADMINISTRATION.

#### STATE BOARD OF EDUCATION AND STATE COMMISSIONER OF EDUCATION.

##### Part I.

330. State board of education—A state department of education is hereby created, which shall be maintained under the direction of a state board of education composed of five representative citizens of the state. The members of the state board of education shall be appointed by the governor, by and with the approval of the senate for a term of five years, and shall hold office until their successors are qualified. The first members of the said board shall be appointed as soon as practicable as follows: One for a term ending January 1, 1920, two for a term ending January 1, 1922, and two for a term ending January 1, 1924; all vacancies in the said board shall be filled for unexpired terms by appointments by the governor. The members of said board shall receive as compensation for their services the sum of ten dollars (\$10) per day for each day actually spent in the performance of their duties and in addition thereto they shall be reimbursed in manner according to law for all necessary expenses incurred in the performance of their duties as members of the board. The first president of the said board shall be the member whose term of the office shall first expire, and the president thereafter shall be chosen annually by the members of the board, but no member of the board shall serve as president longer than two years during a term in office. The first meeting of the said board shall be held at the state capitol, at the call of the president, within thirty (30) days of the appointment of the members of the board; the said board shall hold an annual meeting at the state capitol on the first Tuesday in the month of August, and in addition to the annual meeting the board shall hold quarterly meetings, and may hold special meetings, on such dates and at such places as the board shall designate. Provided: That no member of the board shall hold any other office elective or appointive under the state "except a notary public," or be employed in any state institution. (2958)

331. Same; oath and contracts—Before entering upon the duties of his office each member of the state board of education shall take an oath of office which shall be filed with the secretary of state. All contracts made by the said board shall be in writing and shall be signed by its president and attested by its secretary. (2959)

332. Same; organization and rules—The state board of education is authorized to make complete organization of the department of education, as created by this act, and to adopt all necessary rules, not in conflict with the provisions of law, for the conduct of its affairs; the said board shall have authority also, to define the duties of appointees and employes to the end that the educational and business activities of the department of education shall be conducted under reasonable and effective regulations which shall promote the educational interest of the state and safeguard the finances appropriated for the support thereof. (2960)

333. Same; officers, assistants and compensation—The state board of education shall be provided with suitable offices at the seat of government and the said board may provide all records, files and office supplies required in the transaction of its business. The board shall have power to appoint a commissioner of education at a salary not to exceed \$5,000 per annum: a deputy commissioner of education at a salary not to exceed \$3,500 per annum; one head of department at a salary not to exceed \$4,000 per annum; four heads of departments, each at a salary not to exceed \$3,500 per annum; five heads of departments or assistants, each at a salary not

to exceed \$3,000 per annum; four assistants, each at a salary not to exceed \$2,500 per annum; two assistants, each at a salary not to exceed \$1,500 per annum and clerks and stenographers at salaries not to exceed in the aggregate the amount appropriated by the legislature for that purpose. The board shall designate the official title of all of its employes except that of the commissioner of education and fix their salaries subject to the limitations above stated, provided that the total amount paid for salaries shall not in any year exceed the amount appropriated for that purpose by the legislature. (2961)

334. State commissioner of education—The state board of education at its first meeting, shall proceed to elect a state commissioner of education who shall be the executive officer and secretary of the said board and whose term of office shall be six years. The commissioner of education shall be a person who possesses educational attainment and breadth of experience in the administration of public education and of the finances pertaining thereto commensurate with the spirit and intent of this act. The term of service of the first commissioner of education shall begin August 1, 1919. The commissioner of education shall have authority to nominate, for approval by the state board of education, such officials and employes as may be necessary to perfect and to maintain the organization of the department of education as recommended by the commissioner of education and as adopted by the state board of education. The commissioner of education shall perform the duties heretofore required by law of the state superintendent of education as ex officio member of all official boards and such other duties and functions heretofore vested in the state superintendent of education as the law and the rules of the state board of education may provide, and he shall be held responsible for the efficient administration and discipline of the various offices and divisions in the organization of the department of education; the said commissioner of education shall be required to make recommendations to the state board of education which shall facilitate all of the work of the said board, and he shall be charged furthermore, with the execution of powers and duties which the state board of education may prescribe, from time to time, to promote public education in the state, to safeguard the finances pertaining thereto, and to enable the said board to carry out, conclusively, the provisions of this act. (2962)

335. Same; functions, powers and duties—All the functions, powers and duties which are now by law vested in, or by law exercised by, the state superintendent of education and his appointees, the state high school board and its appointees, and the state library commission and its appointees, shall be and the same are hereby vested in, and shall be exercised by the state board of education according to the provisions of this act. The said state board of education shall administer all laws relating to state superintendent of public schools, libraries and other public educational institutions, except such laws as may relate to the state university and to the state normal schools. In order that the provisions of this act may be carried out, the state high school board, the state library commission and the office of the state superintendent of education shall terminate July 31, 1919. (2963)

336. Same; report of state board of education—On or before November 15 of each even numbered year, the state board of education shall make a report to the governor, which shall cover the biennial period ending July 31 preceding; the said report shall contain a copy of all rules of said board in force during the biennial period, the name and salary of each officer or employe in the department of education, a summary of the financial affairs, of said department, and such other matters as it may seem advisable to include in such report, or as shall be required by the governor. (2964)

337. Same; state aid to public schools and budget—The state board of education shall cause to be made under its direction studies of and investigations relating to the administration of funds appropriated by the legislature for public school aid; such studies and investigations shall be exhaustive, shall contain constructive suggestions and recommendations to the governor, and shall be transmitted by him to the legislature, the same to be embodied in and to be a part of the first biennial report of the state board of education, which shall be submitted to the governor as required by the provisions of section 7 of this act. The state board of education shall recommend to the governor and legislature such modification and unification of laws relating to the state system of education as shall make those laws more readily understood and more effective in execution; and the state board of education shall prepare a biennial education budget which shall be submitted to the governor and legislature, according to the provisions of law, such budget to contain a complete statement of finances pertaining to the maintenance of the department of education and to the distribution of state aid to public schools. (2965)

338. Same; conflict of powers—In case of any apparent conflict between powers, duties and functions conferred by law upon any educational officer, or person, or board, or commission named in section 6 of this act and those conferred by this act on the state board of education, it shall be conclusively presumed that such powers, duties and functions belong to the state board of education to be exercised by it under the law and rules of said board. (2966)

339. Same; officers and employes to give bonds—The state board of education shall require all officers and employes under its control, who may be charged with any money or property belonging to the state, to give bond to the state in such sum and with such conditions as the said board by its rules may direct. and each bond shall be approved by the board. (2967)

340. Same; state university and state normal schools—Nothing in this act contained shall be held to apply to the University of Minnesota, or to the state normal school, or to the powers, functions and duties vested by law in the board of regents of said university, or in the state normal school boards. (2968)

341. Same; inefficiency, etc.—Any person officially connected with or employed by the department of education who shall be found inefficient or guilty of any acts inconsistent with the duties of his office shall be removed from office by the authority which appointed him. (2969)

342. Same; meetings of board prior to August 1, 1919—The state board of education is authorized to hold necessary meetings, prior to August 1, 1919, for the transaction of business in accordance with the provisions of this act, and any action taken by the said board at such preliminary meetings shall be legal. (2970)

343. Same; when duties of appointees begin—The powers and duties of the appointees hereunder shall not begin until August 1, 1919, except as herein above provided. (2971)



## PART II.

### SUPERINTENDENT OF EDUCATION.

Note: Attention is called to the fact that, by Chapter 334, Laws of 1919, all the functions, powers and duties formerly vested in the state superintendent of education are now vested in the State Board of Education and that the Commissioner of Education now performs the duties and functions heretofore vested in the state superintendent of education as the law and the rules of the state board of education may provide.

344. Superintendent of education, etc.—The general supervision of public schools is vested in a state superintendent to be known as the superintendent of education, and in the various county, city and district superintendents, the state high school board and its inspectors. (2869, G. S. 1913)

345. Same; contingent fund, expenses of—The superintendent and other persons appointed by him shall receive their necessary expenses for traveling and other incidental expenses incurred in connection with their official duties, to be paid from the contingent fund or from other appropriations made for such purposes. (2871, G. S. 1913)

346. Same; powers, duties, reports, etc.—Besides exercising general supervision over public schools and public education agencies in the state, the superintendent of education shall prescribe rules for the several classes of public schools receiving special state aid. He shall classify and standardize rural and other public schools and prepare for them outlines and suggestive courses of study. He shall, under the laws prescribed therefor, issue all certificates to those employed as teachers and supervisors in public schools.

For the purpose of considering matters affecting the interests of public education, he shall upon notice, meet the several county and city superintendents and school principals at such times and places in the state as he shall deem most convenient and beneficial. On or before December 1 of each even-numbered year, he shall prepare and submit to the legislature, through the governor, a report containing:

1. An abstract of the reports of the several county superintendents showing such facts and giving such information as the said superintendent may require relative to public schools, including enrollment, attendance and classification of pupils in public schools.

2. A statement of the condition of public schools and of public and other institutions of learning reporting to him.

3. The amount of moneys received and expended each year for public schools and public education, specifying the amount received from each source and the amount expended for each purpose.

4. The number, kind, and name of public schools of each class receiving state aid, and the estimated amount of aid for the ensuing two years, together with such facts relating to these schools as will show their progress and work. (2872, G. S. 1913)

347. Same; to prepare uniform system of records and accounting—The superintendent of education shall prepare a uniform system of records for public schools, require reports from county and other superintendents and principals of schools, teachers, school officers, and the chief officers of public and other educational institutions, to give such facts as he may deem of public value. He shall establish and carry into effect a uniform system of accounting by public school officers, and he shall have authority to supervise and examine the accounts and other records of all public schools. (2873, G. S. 1913)

348. Same; to prescribe rules and examine plans for buildings—He shall prescribe rules and examine all plans and specifications for the erection, enlargement and change of school buildings, which plans and specifications shall first be submitted to him for approval before contract is let, and no new school buildings shall be erected or any building enlarged or changed until the plans and specifications have been submitted to and have been approved by the superintendent of education. He shall include in such rules

those made from time to time by the state board of health, relative to sanitary standards for toilets, water supply and disposal of sewage in public school buildings. In all other respects the authority to make rules for public school buildings shall be vested in the superintendent of education. Under such rules and procedure as the superintendent or the high school board shall prescribe, he may condemn school buildings and sites which are unfit or unsafe for use as such. (2874, G. S. 1913)

349. Same; to prepare registers, blanks and record blanks—He shall prepare and distribute, through the county superintendents, school registers, blanks for all reports required by this title, record books for district treasurers and clerks, and any other blanks necessary for school business. (2877, G. S. 1913)

350. Same; to proclaim annual "Minnesota Day"—There shall be designated annually by proclamation by the superintendent of public instruction of this state, by and with the consent of the governor, a day between October 1st and May 1st to be designated and known as "Minnesota Day." (2806, G. S. 1913)

351. Same; observance of "Minnesota Day"—On that day all the public schools of this state shall give special attention to exercises devoted to matters of interest appertaining to the State of Minnesota and its geography, history, industries and resources. (2807, G. S. 1913)

#### TEACHERS' INSTITUTES

352. The State Commissioner of Education shall provide for teachers' institutes in the several counties of the state for the professional instruction and training of teachers. He shall designate the county or counties for which such institutes are to be held, and the times and places of holding the same, and shall employ instructors and lecturers therefor. Each institute shall continue for not to exceed one week. In the discretion of the commissioner and in co-operation with the county superintendent of schools, institute instructors may visit schools in the county for not to exceed four days in connection with any institute. (Section 1, chapter 110, Laws 1925.)

The superintendent of each county for which such institute is designated shall give notice thereof to the teachers of the ungraded elementary schools of his county, and may require their attendance. He shall make all necessary arrangements and shall attend and take part in the work of such institute. (Section 2, chapter 110, Laws 1925.)

It shall be the duty of every teacher in an ungraded elementary school in the county to attend such institute during its entire duration, unless excused by the county superintendent for cause. Every teacher who has been in attendance at such institute shall receive from the county superintendent a certificate indicating the days attended, which, when presented to the clerk of the school district in which the teacher is employed, shall entitle the teacher to full pay for the time her school has been closed on account of actual attendance at such institute. (Section 3, chapter 110, Laws 1925.)

The school board in any district in which an institute is designated to be held shall allow the free use of any school house or school room for that purpose, upon ten days' notice of selection from the county superintendent; provided, that such use shall not interfere with the sessions of school. (Section 4, chapter 110, Laws 1925.)

The county board of any county for which an institute is appointed shall allow bills for the personal expenses of the county superintendent in holding institutes, when held elsewhere than at the county seat, but not to exceed the sum of fifty dollars (\$50.00) in any one year. The board may also appropriate out of the county revenue fund a reasonable sum for expense of the institute to be expended under direction of the county superintendent, who shall file with the county auditor within a month an itemized statement of the disbursements thereof. (Section 5, chapter 110, Laws 1925.)

## PART III.

### COUNTY SUPERINTENDENTS.

353. **County superintendent; election of**—In every county in this state there shall be elected at the general election in 1918 \* \* \* county superintendent of schools. (820)

354. **Same; term of office**—The terms of office of the said county officers shall be four years and until their successors are elected and qualified and shall begin on the first Monday in January next succeeding said election; and said offices shall be filled by election every four years thereafter. (821)

355. **Same; how removed from office**—The governor may remove from office any county superintendent of schools whenever it appears to him, by competent evidence that he has been guilty of malfeasance or nonfeasance in the performance of his official duties; first giving to such officer a copy of the charges against him, and an opportunity to be heard in his defense. (6954)

356. **Same; to turn over records at end of term**—Every county superintendent on retiring from office shall deliver to the auditor of his county, for his successor, the records of his office, a list of the clerks of all school districts of the county, with their postoffice addresses, and of all persons under contract to teach in the common schools, together with all blanks, registers, copies of laws, and other state or county property in his possession; and no auditor shall make full payment of salary to any such county superintendent until he has complied with the requirements of this section. (961)

357. **Same; duties and powers of**—In addition to their other duties, county superintendents shall visit and instruct each school in their counties at least once in each term, except those under the immediate charge of a city or district superintendent, and instruct its teachers: organize and conduct such teachers' institutes as they shall deem expedient; encourage teachers' associations; advise teachers and school boards in regard to the best methods of instructions, the most approved plans for building, improving, and ventilating school houses, or ornamenting school grounds, and of adapting them to the convenience and healthful exercise of the pupils; stimulate school officers to the prompt and proper discharge of their duties; receive and file all reports required to be made to them; and make a report to the state superintendent, containing an abstract of such reports, a written statement of the condition and prospects of the schools under their charge, and such other matters as they may deem proper, or as may be called for by the state superintendent. (2973)

"Can a regularly employed teacher in a common school also hold the office of county superintendent of schools?" While such double employment might possibly be justified in exceptional cases, it is not within the contemplation of law. (Childs, October 8, 1892.)

358. **Same; may call meetings of district officers**—The county superintendent may call meetings of the district officers of his county at such times and places as may be convenient, to remain in session for one day, for consultation and advice in regard to school statistics, methods of organization of schools, and other matters relating to the educational interests of the public schools. (2974)

359. **Same; to keep records of examination of teachers**—The county superintendent shall keep in books provided by the county a record of examinations of candidates to whom certificates are granted or refused, of the date of examination, the name, sex and age of each candidate, the grade of certificate granted and the grounds on which any certificate is refused, and a like record of all certificates of those teaching in his county, and of such other matters as may be prescribed by the state superintendent. (2975)



360. Same; to keep records of teachers' certificates and diplomas—County superintendents of schools shall record in their office in a book provided by the board of county commissioners for such purpose, all material facts concerning teachers' certificates and diplomas presented for that purpose, and shall certify to the holder of such certificates or diploma that such record has been made. (2902)

It is the duty of the county superintendent to keep a record of re-examinations and revocations of teachers' licenses; and such record is the best and proper evidence of revocation. (32 M. 476.)

361. Same; to forward to teachers and clerks, blanks, circulars, etc.—He shall forward to teachers and clerks all blanks and circulars furnished him for their use, and shall be guided generally by the rules prescribed by the state superintendent and the high school board. (2976)

362. Same; to report to superintendent of education—He shall report to the state superintendent, on or before September 20th of each year, the number of different pupils of school age enrolled in the schools of each district; taking care that no pupil is counted more than once, and that no one not entitled to apportionment is included. This report shall include tabulated extracts from the reports of the teachers and clerks, and such other matters as may be called for in the blanks. (2977)

363. Same; to report to county auditor—He shall in like manner, on or before the last Wednesday in October, file with the county auditor an abstract of the number of pupils of school age enrolled in the school of each district, and entitled to be counted for appropriation (apportionment) from the current school fund, and of months' school taught in each school during such school year. (2978)

364. Same; failure to report—No warrant shall be drawn for the payment of the salary of the county superintendent for the month of October of any year unless such report to the auditor shall have been filed, and proof made of the filing of such superintendent's report to the state superintendent. (2979)

365. Same; to appoint deputy in certain cases—Any superintendent physically unable to visit his schools or conduct teachers' examinations in proper time may appoint a deputy superintendent for not more than sixty days in any year, to be paid by such county superintendent. (2980)

366. Same; traveling expenses—The county board of each county of the State of Minnesota shall audit and if found correct, allow duly itemized and verified claims of the County Superintendent of Schools for actual and necessary traveling expenses, incurred by him or his assistants in the discharge of their official duties. If the County Superintendent of Schools or his assistant uses his own automobile or other conveyance owned by him in the performance of his official duties, the county board shall likewise allow him therefor not less than ten (10) cents per mile for each mile necessarily traveled in such automobile or other conveyance in the performance of his official duties. (962)

County superintendent may not be reimbursed for traveling expenses out of the county while hiring or interviewing teachers; nor for attending teachers' meetings other than those in his own county or called under provisions of section 2872, G. S. 1913. (Hilton, Feb. 10, 1919.)

The county superintendent and his assistants are entitled to actual and necessary expenses while engaged in the discharge of their duties under sections 1348, 1349, 1376, 1379, and 1380, R. L. These expenses include hotel, livery, keeping of teams, railway fare, etc., while in attendance at teachers' meetings, institutes, training schools, meetings of school officers, at places other than where they live, and while attending meetings called by the state superintendent; but are not entitled to expenses of keeping their own teams at home while not engaged in official business. All such expenses are to be paid in addition to salary. (Young, May, 1907.)

Chapter 33 of the Laws of 1907 repeals all legislation, general or special, as to the allowance of traveling expenses of county superintendents, and therefore section 1 of chapter 182 of the Laws of 1905, is expressly repealed. (Young, September 23, 1907.)

367. Same; salaries of—Salaries of county superintendents, except as hereafter provided shall be fixed by the county board, and shall not be less than a sum equal to fifteen dollars (\$15.00) or twelve dollars and fifty cents (\$12.50) as herein provided for each organized public school in the county, to be reckoned pro-rata for the year from the time when a new school organized in any district, begins. It shall be fixed at not less than fifteen dollars (\$15.00) for each public school in the county, until the salary, reckoned on that basis, reaches one thousand dollars (\$1,000), and in counties where the salary, reckoned at fifteen dollars (\$15.00) per school, shall exceed one thousand dollars (\$1,000) it shall be reckoned on the basis of not less than twelve dollars and fifty cents (\$12.50) for each public school in the county, until the salary reaches two thousand dollars (\$2,000) but in no county shall the salary, reckoned on the basis of twelve dollars and fifty cents (\$12.50) for each school, be less than one thousand dollars (\$1,000). Provided that when one or more school districts are hereafter discontinued in any county as a result of consolidation, or when school in any school-building is or has been discontinued as a result of consolidation and the children usually attendant thereat are transported to another school in the same or adjoining district by the school authorities, then hereafter the salary of the county superintendent shall be reckoned and an assistant or assistant superintendent, if any, shall be appointed on the basis of the number of schools before such consolidation, or discontinuance, was made. In any county, except as otherwise provided in this act, the salary of the county superintendent may be fixed by the county board at such sum higher than two thousand dollars (\$2,000) as the county board shall determine.

The provisions of this section shall apply to all counties in this state excepting (1) those having a population of one hundred and fifty thousand or more, in which the salary of the county superintendent and the appointment and salary of his assistant shall remain as now fixed by law referring to such counties, and (2) other counties where the salary of county superintendent is now fixed by special law in which last-named counties the salary of the county superintendent shall be fixed by such special law, but all other provisions of this act shall apply to such last-named counties.

The term "school" as used in this act shall be understood to mean a school building in which a public school is held. (958)

368. Same; payment of postage, stationery, etc.—The county board of each county shall pay itemized and verified bills for postage used in official correspondence and in forwarding official documents, express, telegraph and telephone charges in official business, necessary bills for printing notices, circulars, lists of questions, annual reports required in the proper grading of schools, and necessary and proper expenditures in connection with county graduation exercises, or such reports and classification records as may be required by the state superintendent, together with necessary stationery in the examination of teachers and pupils and for official correspondence; also the local expense in connection with teachers' institutes and training schools and for conducting teachers' examinations. (959)

369. Same; assistants of, and salaries—In counties containing not less than forty-five nor more than seventy-four schools the county superintendent may be allowed annually, such sum for clerk hire as the county board shall determine, not exceeding the sum of \$350.00. In counties containing not less than seventy-five nor more than one hundred twenty-four schools the county superintendent may be allowed annually such sum for clerk hire as the county board may determine not exceeding the sum of \$450.00. In counties having one hundred and twenty-five schools, but less than two hundred and forty, the county superintendent may be allowed annually such sum for clerk hire as the county board shall determine, not exceeding the sum of \$650.00 and shall appoint one assistant, and in counties having two hundred and forty schools or more, he shall appoint two assistants, and the assistant or assistants shall give their entire time to their duties as such assistant super-

intendents, and shall serve during the pleasure of the superintendent. The salaries of assistants appointed to serve for full time shall be fixed by the county board at not less than six hundred dollars (\$600) nor more than fifteen hundred dollars (\$1,500) per annum. Assistants so appointed to serve for full time shall have had at least eighteen months' experience in public schools, and be the holders of teachers' certificates equivalent to diplomas from a Minnesota normal school, except that in counties having two assistants it shall be sufficient if one of them possesses the teaching experience and the certificate herein referred to. Any assistant at the time of his appointment may or may not be a resident of the county for which he is appointed. In each case the assistant county superintendent shall assist the superintendent in the performance of his general duties, as directed, and report to him. Clerk hire shall be paid to the persons actually rendering such clerical services, out of the county treasury, upon the order of the county auditor accompanied by a certificate of the county superintendent that the service has been rendered, and no allowance for such clerk hire shall be made or received in any case except for services actually rendered.

This act shall not apply to any county now operating under a special law, nor to any county where the provisions for county superintendent's clerk hire or assistant county superintendents is fixed on a classification other than the number of schools. (Section 960, G. S. 1923, as amended by chapter 342, Laws 1927.)

#### PART IV.

##### HIGH SCHOOL BOARD.

Note: Attention is called to Section 6, chapter 334, Laws of 1919, (Section 333 of this compilation) which abolishes the high school board but vests the powers, duties and functions which it heretofore possessed, in the state board of education.

370. Same; powers and duties—The board shall establish rules relating to examinations, reports, acceptances of schools, and courses of study, and other proceedings in connection with high and graded schools applying for special state aid, and shall prescribe and enforce the maintenance of an optional English or business course, as equivalent to the preparatory collegiate course; but the school board of any district may substitute any proper studies in place of any studies embraced in such course. Provided, that the privileges of the state high school board examinations shall be extended, under the supervision of the board, to the private schools and academies in this state which make application therefor, and the courses of study and requirements for graduation of which correspond in general to that of state high schools, and which said private schools and academies so desiring such privilege shall submit to the same rules and inspection with respect to these examinations as may be provided for state high schools. (2990)

371. Same; records and reports—It shall keep a record of all its proceedings, and on or before September 1st shall make a report to the state superintendent covering the previous year, and showing in detail:

1. All receipts and disbursements, with the source and nature thereof.
2. The names and number of schools of each grade receiving aid, and the number of pupils attending each class therein.

To such report it may add such recommendations as it may deem best. (2890, G. S. 1913.)

372. Same; to appoint school inspectors and examiners—It shall appoint a high school and a graded school inspector, and such assistant inspectors and examiners as may be necessary, and fix their compensation;



but no person receiving a salary from a state institution shall receive any compensation under this section, and the pay of examiners shall not exceed three dollars per day, or fifty cents per hour. (2891, G. S. 1913.)

373. Duties of inspectors and assistant—The high school inspector or an assistant shall visit and examine each high school at least once in each year, and carefully inspect its instruction and discipline, and immediately make a written report thereon. The graded school inspector and his assistants shall perform like duties in respect to graded schools. (2892, G. S. 1913.)

374. County superintendent to conduct high school board examinations at designated places—Upon written application the high school board shall empower any county superintendent to conduct the high school board examinations in the schools of his county other than high and graded. For this purpose he shall hold the same relation to the board as the principal or superintendent of schools under its supervision.

He may designate the points at which such examinations are to be held. He may also appoint assistants for grading the papers of such examinations and such assistants shall be paid by the county at the rate of three dollars per day, but the number of assistants shall not exceed one for each twenty schools or major fraction thereof in the county, nor shall the amount of money expended for this purpose exceed one hundred dollars in any one year. Provided, that the county superintendent of schools of the county in which the aforesaid examinations are so given may extend the privileges of such examination to any school in his said county in which there is maintained the standards of length of term and course of study prescribed for the public schools of like grade in such county. (2991, as amended by chapter 233, Laws 1925.)

375. Powers of state board of health and school boards—As to the power of the state board of health concerning the construction and equipment of schools in respect to sanitary conditions; the furnishing of vaccine matter; the assembling during epidemics of smallpox with other persons not vaccinated; and as to the power of school boards compelling the vaccination of children or excluding them from school during epidemics of smallpox, see 5345, G. S. 1923.

In the absence of a statute making vaccination a condition precedent to the right of children to attend school a rule of the state board of health which has general supervision over public health, making a certificate of vaccination a condition of the right of children to attend the public schools, cannot be sustained as an exercise of police power; and such a rule, made when there is no epidemic of smallpox and no reasonable apprehension that the disease may become prevalent, is unconstitutional and void. (Supreme Court of Wis., 70 N. W. Rep. 347.)

A general grant of power in broad and comprehensive terms to make rules for the preservation of public health, rests in the authorities to whom it is granted power to enforce, in cases of emergency, rendering it necessary in the interests of public health and for the prevention of smallpox, a regulation requiring children to be vaccinated as a condition to their admission to the public schools. (86 M. 353.)

**PART V.**  
**TEACHERS.**  
**QUALIFICATION AND TRAINING**

**376. Qualified teachers**—A qualified teacher is one holding a certificate or license to teach, as hereinafter provided, in the school or grade for which he is employed. Contracts for teaching can only be made with qualified teachers. Contracts made with persons before obtaining such certificates or licenses shall only be valid from the time of obtaining the proper certificate or license. (2900)

A contract by a district to hire a teacher who has not procured the required certificate is void. (12 M. 448) (Gil. 337.)

As to contracts to teach and qualifications for making such contracts, see section 402 and annotations.

A school board may employ a student from the normal department of the school who is not a qualified teacher to assist a legally employed teacher. (Smith, January 25, 1915.)

**377. Certificate to be filed**—No person shall be accounted a qualified teacher in any common school district within the meaning of the school law, until such person has filed for record with the county superintendent of schools of the county where such person intends to teach, a certificate or diploma or certified copy of either authorizing such person to teach school in such county. (2901)

Teachers in independent and in special districts are not required to file their certificates in the office of the county superintendent in order to be legally qualified. (Hilton, July, 1921.)

**378. Professional training**—From and after August 1, 1915, all candidates for teacher's certificates by examination, renewal or endorsement of credentials, except those who have taught successfully for at least eighteen months in the public schools prior to such date, or those receiving either a second grade or a limited certificate, must have completed such a course of professional training for teaching not exceeding thirty-six weeks, as may be prescribed by the state superintendent.

Training courses in the state university, in state normal schools, in state high schools, or in private schools fully and fairly the equivalent of those given in state schools and approved by the said superintendent shall be accepted as meeting the requirements for teachers training under this section. (2935)

**378a. Instrumentalities of training**—For the special training of teachers for the public schools, there are established: (1) teachers' institutes; (2) training schools; (3) normal schools. (3058)

**TEACHERS' EXAMINATIONS.**

**379. Times and places for**—The county superintendent shall hold at least two examinations a year in convenient places in his county, upon such notice as may be prescribed by the state superintendent. The time of such examinations shall be fixed by the state superintendent, and shall be uniform throughout the state and shall determine the educational qualification of applicants for teachers' certificates. The school board of any district in which any such examination is appointed shall allow the free use of any schoolhouse or schoolrooms for that purpose, upon ten days' notice of selection from the county superintendent. (2907)

**380. Same; fees to be paid by candidates**—Every candidate at each examination for a teacher's certificate or for the renewal or extension of such certificate shall pay a fee of 50 cents before such examination is entered upon or renewal or extension granted. Such fees shall be collected by the county superintendent and by him remitted to the state superintendent. Each candidate for the endorsement of a diploma granted by a Minnesota normal school or by a normal school of another state, and each

candidate for a professional certificate granted either upon examination or by endorsement of proper credentials, shall pay to the state superintendent a fee of \$1.00 before such examination is entered upon or certificate issued. The fee for a permanent professional certificate shall be \$5.00.

The state superintendent shall at the end of each month pay to the state auditor the full amount of all such examination fees paid or remitted to him, together with a report showing the amount of fees collected for each class and kind of certificate. The state auditor shall credit all such fees to the teachers' institute fund, except those paid for the endorsement of diplomas issued by Minnesota normal schools, which shall be credited in the proper amount to the support fund of the normal school by which the diploma so endorsed as a certificate has been issued. (2932)

381. Same; expenses of; how paid—The local expenses of such examinations shall be paid by the county in which they are held; the expense incurred by the state superintendent under the provisions of this chapter, not to exceed twenty-five hundred dollars per year, shall be paid out of the fund for conducting teachers' institutes. (2915)

382. Same; branches of examination—All applicants for certificates shall be examined in the following branches: Reading, spelling, writing, arithmetic, grammar, United States history, composition, geography, physiology, civil government and practical hygiene. Applicants for a first grade certificate shall also be examined in elementary algebra, plane geometry, physical geography and physics; but the state superintendent may, in his regulations, designate other branches that may be taken in lieu of physical geography, physics, and plane geometry, at the option of the applicant. Applicants for any grade may, at their option, be examined in music, drawing, and such languages as may be prescribed by the state superintendent. Applicants for special certificates shall be examined in all the branches required for second grade certificates, and in such other branches as they wish to be specially authorized to teach. (2909)

383. Same; conduct of examinations—Such examinations shall be public, and shall be conducted by the county superintendent, or by persons appointed by him, strictly according to the regulations prescribed by the state superintendent. An affidavit may be required of persons conducting such examinations that they have been conducted fairly and according to such regulations. Teachers taking part therein may dismiss their schools for not to exceed two days in each year without loss of time. (2908)

384. Same; marking on—The written answers for the scholastic examination shall be read and marked under the direction of the state superintendent. Markings for the professional requirements shall be given by the county superintendent, who shall also be the judge of skill in teaching and moral character of applicants. (2910)

## TEACHERS' CERTIFICATES.

385. Grades of—There shall be five grades of regular teachers' certificates: Third grade, second grade, first grade, second grade professional, and first grade professional. No certificate shall be granted except on satisfactory proof of professional ability and moral character. Provided, that the state superintendent of public instruction may in his discretion issue certificates of qualification without examination to persons who have taught in public schools of this state for five or more years, upon their filing with said superintendent of public instruction a written application approved by the board of education or school trustees, together with the city superintendent or county superintendent, under whom said applicant shall have taught the greater part of five years preceding the date of application. (2916)



386. **Limited second grade certificates**—Limited second grade certificates, good for one year, may be given by the county superintendent to persons without experience, not less than seventeen years of age, who have passed the required examination. (2924)

387. **Second grade certificates**—Second grade certificates shall be given to persons otherwise qualified, not less than eighteen years of age, and of at least five months' successful experience in teaching. Such certificates shall be signed by the state and county superintendent, and shall be valid for two years in the county designated, and in any other county upon indorsement by the county superintendent thereof. (2917)

388. **First grade certificates**—First grade certificates shall be given to persons otherwise qualified, and of at least eight months' successful experience in teaching. Such certificate shall be signed by the state and county superintendents, and shall be valid for five years in any county of the state, upon presentation thereof to the county superintendent of such county. (2918)

389. **Special certificates**—The state superintended may issue a special certificate to (1) a graduate of a standard and approved college or state normal school; (2) to one otherwise qualified who has completed such course of study and training as the said superintendent may require, authorizing the holder to teach music, drawing, home economics, manual or industrial arts, agriculture, commercial subjects or to serve as teachers of kindergartens, primary grades and physical training and to act as school librarians. (2933, as amended by chapter 141, Laws 1925)

390. **Certificates from other states**—The state superintendent may accept or endorse certificates from other states on such conditions as he may prescribe. (2934)

391. **High and normal school certificates may be accepted when**—Certificates from state high or normal schools, showing a standing of not less than seventy-five per cent, may be received by the state superintendent, under such conditions as he may prescribe, in place of such examination. (2911)

392. **Renewal and validity of certificates**—First and second grade certificates may be renewed as prescribed by the state superintendent, and shall be valid in all grades below the high school unless the school board of any district, by formal action, decide otherwise, and except as otherwise expressly provided in this chapter. (2923)

393. **Appeal from refusal of certificate**—Any person to whom a certificate is refused may, within ten days from the receipt of notice of refusal, appeal to the state superintendent, and when such refusal is for failure to pass the scholastic examination, he may on appeal have his papers reviewed and marked by the instructors in the corresponding branches of the state university, and such review and marking shall be final. (2925)

## PROFESSIONAL EXAMINATIONS AND CERTIFICATES.

394. **Professional certificate—How issued**—A first grade professional certificate may be issued on the diploma of an accredited college of education or on a diploma of a liberal arts college or university together with evidence of such professional training as may be prescribed by the state board of education under the provisions of section 2935, General Statutes 1923. Such certificates shall be valid in elementary schools or in high schools as designated on such certificates. (Section 1, chapter 160, Laws 1927.)

395. Same—Permanent teachers of high character and successful experience may be granted first grade professional certificates upon qualifications prescribed in section 1 of this act. Such certificates shall remain in force as long as the holder is engaged in educational pursuits, but shall be void after he shall cease for five years so to do unless it be renewed by endorsement of the state commissioner of education. (Section 2, chapter 160, Laws 1927.)

396. University diplomas; when valid as certificates—Certificates of graduation from the state university issued to graduates of the college of education and to those graduates from its college of science, literature and art (or its college of agriculture), who have taken specified courses in the college of education, shall be valid as first grade professional certificates for two years from their date, and at the expiration of two years of actual successful teaching, such certificates, endorsed by the president of the university and the state superintendent, shall have the force of permanent first grade professional certificates. (2919)

397. Advanced normal school diplomas—Diplomas issued to graduates of the state normal schools shall be valid as first grade certificates for two years from their date, and at the expiration of two years of actual, successful teaching, such diplomas, endorsed by the president of the school granting them, and the state superintendent, shall have the force of the first grade certificate for life. (2920)

398. Normal school elementary diplomas—Elementary diplomas granted by a state normal school upon the completion of such portion of the course of study as may be prescribed therefor by the normal school board, shall be valid as first grade certificates for the period of three years from their date, and shall not be renewable; except that any holder of such an elementary diploma may have the force and effect thereof, as such first grade certificate, extended for a further period of three years, by the completion of an additional one year of work in a Minnesota state normal school, and the certificate of endorsement thereon by the president of such school and the state superintendent; provided, that the provisions of this section shall not apply to persons now holding Minnesota elementary normal school diplomas, nor to any student heretofore enrolled in a Minnesota state normal school who shall be graduated prior to September 1, 1911. (2921)

399. Normal school certificates—The holders of certificates from the state normal schools, showing the completion of two years of prescribed work in such schools, shall be entitled to have such certificates endorsed by the superintendent of public instruction and thereby given the full force and effect of a second grade certificate. (2922)

400. Records of certificates and diplomas—County superintendent of schools shall record in their office in a book provided by the board of county commissioners for such purpose, all material facts concerning teachers' certificates and diplomas presented for that purpose and shall certify to the holder of such certificate or diploma that such record has been made. (2902)

If a teacher has a valid certificate, she may enter into a contract to teach before the filing of the certificate and file her certificate afterward, under chapter 137, Laws 1905; but, if the board should make a contract with another teacher who had filed her certificate before the first one filed hers, the contract with the latter would prevail as against the first one who had neglected to file. However, teachers, for their own protection should be careful to file their certificates before making a contract to teach. (Young, p. 180.)

401. Suspension of certificates—Any county superintendent of schools may, for any of the causes mentioned in section 2 hereof, upon his own authority or upon written complaint of any school board of his county, and after serving notice on the teacher of the grounds of complaint, and after an opportunity of the teacher to make defense, suspend such teacher's authority to teach in any public school in the county.

The teacher whose certificate is thus suspended may appeal to the state

superintendent within ten days after receipt of notice of the suspension of the certificate. The state superintendent shall either confirm, modify or reverse such suspension, and may order that the suspension shall apply against teaching in any public school in the state, or may revoke the certificate, and his action shall be final. In case the superintendent shall refuse to suspend a teacher's certificate upon complaint of the school board employing such teacher, the board may appeal in like time and manner, and upon such appeal the state superintendent may annul the teacher's authority to teach, by a suspension or revocation of such teacher's certificate, after serving notice on the teacher of the grounds of complaint, and after opportunity for the teacher to make defense, and his action in the premises shall be final.

The county superintendent shall file with the clerk of the school board and the state superintendent a statement of the suspension of any teacher's certificate, with his reason for such action, and deliver a copy of such statement to the teacher, whose authority to teach in such county shall cease in ten days from the service of such statement on said teacher, unless an appeal is taken, as herein provided. (2926)

402. Causes of revocation or suspension—The following shall be considered as causes for the revocation or suspension of a teacher's certificate:

- (a) Immoral character or conduct unbecoming a teacher.
- (b) Failure (without justifiable excuse) to teach for the term of his contract, without first securing the written release of the school board.
- (c) Inefficiency in teaching or in the management of a school.
- (d) Affliction with active tuberculosis or some communicable disease shall be considered as cause for the suspension of certificate, while the holder thereof is suffering from such disability. (2927)

403. Hiring of teachers—School boards shall hire teachers at meetings called for that purpose. No teacher related by blood or marriage, within the fourth degree, computed by the civil law, to a trustee shall be employed, except by a unanimous vote of the full board. The employment shall be by written contract, signed by the teacher, and in common districts, by at least two of the trustees; in special and independent districts, by the chairman and clerk. Such contract shall specify the time of employment, and the wages per month. Provided, nothing herein shall be construed as preventing a teacher from recovering the value of his or her services from any school district where such services were heretofore rendered by such teacher pursuant to oral agreement with the governing body of such school district. (2903, as amended by chapter 161, Laws 1927.)

A teacher who has no certificate at time of entering into a verbal contract, but obtains one shortly after and enters into a written contract and teaches the school for the contract term, may recover at the contract rate from date of written contract. (20 M. 72.) (Gil. 57.)

A contract to hire a teacher not having a certificate is void. (27 M. 433.)

Where a contract purporting on its face to have been made by the district and teacher is signed by the teacher and two persons as director and treasurer, the implication is that such persons are the director and treasurer and therefore two of the board such as are authorized to make the contract. (27 M. 433.)

When an order has been legally issued to a teacher for the amount due her, and has been presented and payment demanded and refused, she may maintain action against the district, even though a writ of mandamus might lie against the treasurer. (35 M. 309.)

A contract between a teacher and the trustees of a district must be in writing and signed by such teacher and a majority of the trustees. (39 M. 499.)

An oral contract by a teacher with a school board is not valid, and no recovery can be had for services thereunder. (77 M. 469.)

If a teacher holds a valid certificate at the time of making a contract which extends beyond the life of the certificate, such contract is good, and will remain so as long as the teacher is in possession of a valid certificate and until the contract expires by its own terms. (Clapp, October 12, 1891.)

As a general proposition the board may discharge a teacher at pleasure. It is incumbent upon them, however, to see to it that the cause is good and sufficient, otherwise the district is not relieved of the contract made with the



teacher. The only provision which can possibly operate to deprive the board of the power of discharging a teacher is that which authorizes the county superintendent to revoke a certificate for proper cause. I am of the opinion that such provision is not exclusive. The officers of the district should possess the power of summary dismissal if the best interests of the school so require. Cases may arise where the conduct of the teacher is flagrantly immoral and corrupting and calling for the most summary action on the part of the board. Certainly, the legislature did not intend to so abridge the authority of the board as to render them powerless in such a case. These views are fairly sustained by the following cases: *Boys vs. State*, 6 Neb. 167; *Smartwood vs. Walbridge*, 57 Ham. 33; *Fisk vs. Board*, 69 Hun. 212; *Tripp vs. School Board*, 7 N. W. 840. As the teacher may enforce his contract against the district, notwithstanding his discharge, unless justified by the facts, the board should advise itself by careful inquiry in any suitable manner, that a just ground for discharge exists. (*Childs*, September 21, 1896.)

A strict construction of this section would compel the conclusion that a legal contract with a teacher cannot be made at any time other than at a meeting of the board called for the purpose; but if there were such a meeting at which the minds of the board and the teacher met in a verbal contract, and the contract as so made reduced to writing and signed afterward it would be valid. (*Young*, p. 180.)

A teacher who is ready and willing to perform the services provided for in her contract, and who is prevented from doing so by an epidemic of smallpox or any other reason, is entitled to recover her wages, even though her contract reads "for actual services rendered." (*Young*, p. 194.)

Under sections 1344 and 1326, R. L. a teacher's wages must be paid by orders drawn by the clerk upon the treasurer. Such orders may be discounted by the teacher, if so disposed, at less than face value; and if not paid when presented, may be reduced to judgment for the full amount against the district. This is the teacher's only remedy. (*Young*, p. 199.)

Teachers cannot be compelled to make up time lost by reason of an epidemic of disease, and the board cannot refuse to pay them for such lost time; but if the teachers voluntarily acquiesce in an arrangement of the board to make up the lost time, they cannot demand extra pay. (*Young*, p. 204.)

A contract made with a teacher who holds a valid certificate, but who has not filed it for record at the time the contract is made, and who files it afterward, is valid under chapter 137, Laws 1905. However, if the board should, during the interval between such contract and the filing of such certificate, employ another teacher who has filed her certificate, the latter would prevail. However, teachers should file their certificates before entering into contracts. (*Young*, June, 1906.)

The board of a common district may, prior to the annual meeting, employ a teacher for the ensuing year and bind the district for the legal six months and for such further time as shall be fixed by the electors at such meeting. (93 M. 411.)

A qualified teacher hired at a meeting of the board, properly called for that purpose, whose contract is signed by two members of the board, has a legal teacher's contract. (*Simpson*, March 30, 1909.)

In the absence of an express provision in the contract with a teacher, so specifying, it is not obligatory upon the teacher to do the janitor work of the schoolhouse. (*Simpson*, January 6, 1910.)

If, in the exercise of sound judgment and discretion, a school board determines that indulging in certain pastimes outside of school hours, by teachers, is detrimental to the work of the school, it will be competent for the board to make a rule forbidding such indulgence, on evenings succeeding school days. If, under all the facts and circumstances, such a rule and regulation is a reasonable one, and the action of a teacher in violating such rule is detrimental to the best interests of the school, then such failure to comply with the rule and regulation would be a cause for removal of such teacher, though the question, in each particular case, as to the reasonableness of the rule, might ultimately have to be passed upon by the court. (*Simpson*, November 4, 1909.)

School boards and boards of education in independent districts have the right to grant their teachers permission to close their schools without loss of pay, for the purpose of attending a state teachers' convention. (*Simpson*, May 8, 1909.)

The statute contemplates the payment of teachers wages at the end of each month's services, and there is no authority for a school board retaining the monthly wages of teachers two weeks after the end of the month. (*Simpson*, October 6, 1909.)

Section 4237, R. L. 1905, provides that "The salary or wages of any officer or person employed by a county, town, city, village or school district, or by any department thereof, shall be liable to garnishment, attachment and execution, except as exempted by law." (*Simpson*, February 25, 1909.)

A school board may employ a substitute teacher for a temporary period only and the contract of employment need not be in writing. (*Smith*, April 20, 1915.)

The school board is not bound by the vote at the annual school meeting that not more than a stated sum should be paid for a teacher's salary. (*Smith*, November 28, 1916.)

A school district cannot employ a teacher, as such, except one qualified according to law; but there is no objection to the employment of a person who is a student in a normal department as assistant to a qualified teacher, provided there are sufficient funds for the purpose and the necessities of the situation reasonably justify such an expenditure. (Smith, January 25, 1915.)

There is nothing in the law preventing the employment of a married person as teacher or to prevent one already employed from marrying while acting as teacher under contract; and a teacher otherwise qualified and who holds a legal contract cannot be forced to resign because of being married. (Smith, October 9, 1914.)

The election of the wife of the superintendent as a teacher does not require the unanimous vote of the school board. (Smith, November 2, 1916.)

A public school teacher cannot wear the garb of a religious order while teaching in such school. (Smith, March 31, 1915.)

A school board cannot employ a "principal" for a term of more than one year, (Smith, April 20, 1915.)

A teacher is not obliged to make up time lost because of a storm. (Smith, April 20, 1916.)

A teacher is not obliged to make up time lost because the schoolhouse was closed on election day. (Smith, April 17, 1916.)

404. To keep registers—Every teacher shall keep a register, furnished by the clerk, showing the daily attendance of each pupil, and such other matters as may be required in such register. He shall also keep such record of deportment and scholarship as may be required by the board. The register shall show the names and ages of all pupils, the names and number of days' attendance of all pupils between the ages of five and eight years between eight and fifteen years, and between fifteen and twenty-one years, and the names of all paying tuition. In common districts the teacher shall return such register properly kept to the clerk within ten days after the close of the first term of the school year. (2904)

405. To report to county superintendent—Such teacher shall, within the same time, make his report to the county superintendent upon blanks furnished by the superintendent through the clerk, giving the names in full of all pupils enrolled and the number of days' attendance of each, checking with a full report of names of all under five, over twenty-one, or paying tuition and all names so checked shall not be counted for apportionment. Within like time after the close of each succeeding term, he shall make a further report showing in like manner all additional enrollments during such term, the number of days that each pupil has attended in such term, and such other matters as may be called for in the blanks. The superintendent shall receipt for such reports. No order shall be issued for the payment of the wages of any teacher while he is in default in making such reports or in returning his register. In joint districts a report shall be made to the superintendent of each county showing county in which each pupil resides. Teachers and principals in other districts shall make such report as may be required by law or the rules of the board under like penalty. (2905)

406. State teachers' employment bureau—There is hereby established a bureau for the purpose of securing employment for teachers in the public schools in this state, to be known as the State Teachers' Employment Bureau, and to be maintained in connection with the department of public instruction, under the direction of the superintendent of public instruction, as hereinafter provided. (2954)

407. Same; who shall be entitled to enrollment—Any person having a certificate to teach in this state, or who has completed a course of study as required for the issuance of a certificate, or who may be found entitled to receive such certificate, and who is deemed to be a fit and capable person for teaching, shall be entitled to enroll with said State Teachers' Employment Bureau upon complying with the regulations hereinafter referred to, and upon the payment of an annual fee of three (3) dollars, which fee shall entitle the person so enrolled, to the privileges and services of said bureau for the term of one year from the date of filing of enrollment and receipt of fee. (2955)

408. Same; purpose of, to furnish information—It shall be the purpose of the State Teachers' Employment Bureau to furnish information to boards, superintendents, principals, or other proper authorities of public schools, upon request regarding teachers, and to furnish teachers enrolled with the bureau information relative to vacancies in positions in public schools; but no person connected with the State Teachers' Employment Bureau shall be held responsible for nor be understood to vouch for the fitness or success of any teacher who may secure a position in a public school through the said bureau, nor shall the acceptance of the enrollment and payment of the annual fee be construed as a guaranty for securing through the bureau employment to teach. (2956)

409. Same; director, duties—The superintendent of public instruction shall appoint a person who shall be known as the director of the State Teachers' Employment Bureau, who shall perform his duties under the general supervision of said superintendent, and serve during his pleasure, and who shall be furnished necessary office rooms in the state capitol. The superintendent of public instruction may appoint such clerical and other assistants as may be required to carry out the purposes of this act, but the expense therefor shall not exceed the moneys appropriated therefor. Said superintendent shall be charged with the general management and control of said Teachers' Employment Bureau, and shall make the necessary rules and regulations for conducting its affairs and for the obtaining of information as to the experience, qualification and character of persons seeking employment. He shall collect and receipt for all fees provided for in this act, and report and pay said fees to the state treasurer once in each month. He shall furnish to the state a surety bond in a sum to be fixed by the governor and state auditor, the cost thereof to be paid for from the funds appropriated for the bureau. (2957)

410. Same; director and secretary, may be held by one person—That the position of director of the state teachers' employment bureau provided by section 2957, General Statutes 1923, and the position of secretary of the board of trustees of the teachers' insurance and retirement fund provided by section 4, chapter 199, Laws 1915, may be held by one and the same person. (2951)

411. Same; payment of salary—That the salary of the director of the state teachers' employment bureau and the secretary of the board of trustees of the teachers' insurance and retirement fund, when the two positions are held by one and the same person shall be paid one-half from the department of education maintenance appropriation and one-half from the teachers' insurance and retirement fund. (2952)

Note—For provisions of Teachers' Tenure Act, applying to, see chapter 36, 1927.

## STATE TEACHERS' INSURANCE AND RETIREMENT FUND.

412. Pensions and annuities for teachers; definition of terms—The word teacher as used in this act shall include any teacher, supervisor, principal, superintendent or librarian employed in any educational or administrative capacity in the public schools of Minnesota, or in any educational, correctional, or charitable institution supported wholly or in part by this state, excepting those employed in the University of Minnesota. The term "member of the Fund Association," wherever used in this act, shall mean and include every teacher (as herein defined), who shall contribute to the Teachers' Insurance and Retirement Fund by the payment of the dues hereinafter provided by this act. (2936, as amended by section 1, chapter 404, Laws 1925.)

413. Same; state fund for, sources of—For the purpose of better compensating the teachers in the public schools and making the occupation of



"teacher" in this state more attractive to qualified persons, there is hereby established for the state a fund to be known as the "Teachers' Insurance and Retirement Fund," for the benefit of teachers who have served not less than twenty (20) years except as hereinafter provided. Said fund shall be secured from the following sources:

First. From assessments on the members of the fund association according to the following schedule:

For the first five years of teaching service, \$5.00 per year;

For the second five years, \$10.00 per year;

For the next ten years, \$20.00 per year;

For the next five years; \$30.00 per year;

Provided that when the regular annual salary as teacher of any member of the fund association shall have reached \$1,500 or more said member shall be assessed upon a percentage basis as follows: One and one-half (1½) per centum per annum, but not more than twenty (20) dollars per year for the first ten years of service as a teacher; and two (2) per centum per annum but more than forty (40) dollars per year for each successive year of service as teacher; provided that in no case shall the annual assessments based on a percentage rate be less for any year than the flat rate assessments for a single year of the corresponding period, said assessment period to cover not more than twenty-five (25) years in all, after which all assessments shall cease.

Second. From all money and property received as donations, gifts, legacies, devises, bequests or otherwise, for the benefit of said Teachers' Insurance and Retirement Fund.

Third. From all interest arising from investments of the money belonging to said fund.

Fourth. From a tax of one-twentieth (1-20) of one mill which is hereby levied annually on all the taxable property located in that part of the state subject to the provisions of this act, after the valuation of said property has been equalized by the state; said tax to be collected by the same officials and at the same time and in the same manner as other taxes in said state, all moneys received from the tax hereby levied to be paid into and become a part of the said Teachers' Insurance and Retirement Fund.

The assessments upon the members of the fund association hereinbefore referred to shall be paid in as many equal monthly payments as there are months in the school year for which the teachers' salaries are paid, and such assessments shall be deducted from the several boards of education or managing bodies from the salaries of teachers as hereinbefore provided.

Credit on period of service may be allowed to applicants for membership for periods of employment prior to the taking effect of this law; but in such case the applicant must pay arrearages at the above rates for the period of service for which credit is so allowed under rules to be adopted by the board of trustees, hereinafter referred to, and the rules adopted by said board shall be uniform in their operation as to all persons affected. In case any teacher has retired for any cause before he or she has paid in fees a sum equal to the full amount of fees required for the annuity applied for and to which such teacher is entitled by period of service, there shall be deducted from the first year's annuity to such teacher such sum as will make the total amount paid by said teacher equal to the full amount of said fees. (2937)

414. Same; contributions from teachers—How paid and collected—It is hereby made the duty of each board of education or managing body required by law to draw the warrants or orders for payment of salaries of teachers to deduct and withhold from each month's salary due to such teach-

er the amount which such teacher is required to pay into said insurance and retirement fund as herein specified, and at the time of such deduction a statement showing the amount of such deductions shall be furnished to such teacher.

Such board of education or other managing body shall, between the first and fifteenth of January and between the first and fifteenth of July of each year, forward to the treasurer of the county in which such school district is situated a statement, verified by the secretary or clerk thereof, showing the amount of money so retained from each teacher in accordance with the provisions of this act, and with said statement shall transmit the entire amount so retained to the treasurer of said county; and in case any school district is situated in more than one county such report and remittance shall be sent to the senior county. Said board of education or other managing body shall also, on or before the fifteenth day of July of each year, transmit to the county superintendent a statement showing the name of each teacher, the number of months of school taught during the year for which the statement is made, the number of months which constitute a school year in said district or institution, and the total amount withheld from the salary of each teacher for the school year preceding, showing also the number of years each of said teachers has taught in the public schools of that district. If no teacher in such public school or other educational institution comes under the provisions of this act, said report shall state such fact and shall be verified by the oath of the clerk or secretary. The failure of any member of a school board, board of education or other body having the management of any educational institution to perform any of the duties herein required of them shall be a misdemeanor.

Each county superintendent shall each year, on or before the first day of September, report under oath to the board of trustees of the State Teachers' Insurance and Retirement Fund, giving an itemized summary of the statements received by him from the school boards and other educational managing bodies, showing the total amount withheld from the salaries of teachers in said county for the benefit of said insurance and retirement fund. Between the fifteenth and thirtieth day of January and between the fifteenth and thirtieth day of July of each year, the county treasurer of each county shall transmit to the state treasurer all moneys received from the boards of education or other managing bodies of school districts or other educational institutions, in accordance with the provisions of this act, and shall certify under oath to the correctness of the amount so received and transmitted. The state treasurer shall credit all moneys received under the provisions of this act to the State Teachers' Insurance and Retirement Fund.

Provided, however, that the state treasurer, the several county treasurers and the treasurers of the various school districts shall be officially liable for the receipt, handling and disbursement of all moneys coming into their hands belonging to the said State Teachers' Insurance and Retirement Fund, and the securities on the official bonds of each of said treasurers shall be liable for such money the same as for all other moneys belonging to the school funds of this state. (2938)

A teacher employer for the first time on September 1, 1915, is required to become a member of the retirement fund association and is required to pay the fixed sum into such fund. (Smith, Feb. 17, 1916.)

415. Same; management of fund, board of trustees, powers of—The management of the fund shall be vested in a board of five (5) trustees, which shall be known as the "Board of Trustees of the Teachers' Insurance and Retirement Fund." Said board shall be composed of the following persons: The state superintendent of education, the state auditor, the attorney general and two (2) members of the fund association, who shall be elected by the members of the fund association at the time and place of the annual meeting of the Minnesota Educational Association and shall serve for the term of two years beginning on the first Monday of January next succeeding their election, except in the case of the first elective members, who shall assume office, immediately after their election and serve one for one year

and one for two years from the first Monday of January next succeeding their election and until their successors are elected. Vacancies in the elective membership of the board shall be filled by appointment by said board of trustees, the appointee to serve until the next meeting of the fund association, when the members of said fund association shall elect a trustee or trustees to serve for the unexpired term or terms. No person shall be appointed by the board of trustees or elected by the members of the fund association as a member of the board of trustees who is not a member of the fund association at the time of the appointment or election.

In the interval between the passage of this act and the time when the first elective members of the board of trustees shall assume office, as hereinbefore provided, the superintendent of education, the state auditor and the attorney general shall constitute a temporary board of trustees of the Teachers' Insurance and Retirement Fund and shall be empowered to perform the duties of said board.

Said board of trustees shall have power to frame by-laws for its own government, not inconsistent with the laws of the state, and to modify them at pleasure; to elect one of its own members as president of the board and to provide and enforce all rules and regulations necessary to carry into effect the provisions of this act; to elect a secretary, who shall serve during the pleasure of the board, and to fix the salary and prescribe the duties of the office of secretary; to authorize the issuance of warrants by the state auditor on the state treasurer, for the payment out of said fund of all annuities or benefits payable under the provisions of this act, of the salary of the secretary, and other necessary expenses.

All applications for annuities or benefits under this act must be made to said board. In passing upon said applications, said board may summon witnesses and, in the case of applications founded on disability, may require any applicant to submit to a medical examination at his or her own expense, and, in the case of all applicants, may conduct any reasonable investigation to determine the justice of any claim submitted. It may sue or be sued in the name of the board of trustees of the Teachers' Insurance and Retirement Fund, and, in all actions brought by or against it, said board shall be represented by the attorney general. Said board shall constitute a part of the state government, but in any action brought against it by any person claiming to be a beneficiary of said Teachers' Insurance and Retirement fund it shall not claim immunity from suit.

It shall be the duty of said board to invest as much of the funds in its hands as shall not be needed for current purposes. Such investments shall be made in the same class of securities as those in which the school funds of the state are required to be invested, and all securities taken upon such investments shall be deposited with the state treasurer; but in case of necessity such securities may be sold in order to raise money for current purpose. No such sale shall be made except by the unanimous vote of said board, such vote to be entered upon the records of its proceedings. All interest obtained from such investments shall be placed in the general fund, to be used for current purposes. A suitable office in the capitol, with suitable furniture and necessary office supplies, shall be provided by the proper state officer for the use of said board of trustees. (2939)

416. Same; meetings of board of trustees, compensation and expenses of—The board of trustees shall meet annually at the office of the secretary, in the state capitol, on the second Saturday in September at an hour to be fixed by the board. Special meetings may be held at any time on the call of the president of said board or by any three members thereof. The state auditor, state superintendent of education and attorney general shall serve as members of said board without additional compensation, but the elective members of said board shall be entitled to compensation at the rate of five dollars per day and necessary expenses, while attending all meetings of said board, to be paid out of the insurance and retirement fund. (2940)

417. Same; fiscal year, reports of trustees and publication of—The fiscal year of the insurance and retirement fund shall begin on the first day of August and shall end on the thirty-first day of July. The board of trus-



tees shall present annually to the fund association at its annual meeting hereinafter provided for, a report of the condition of said funds for the last preceding year, which shall include the receipts and expenditures on account of the fund, together with a list of the beneficiaries thereof and of the securities in which said fund is invested. A copy of said report shall be sent to the governor, a copy shall be retained by the state superintendent of education, and a copy sent to each county superintendent, city superintendent, graded school principal, and the superintendent or president of each state educational institution. This report shall be published in the biennial report of the state superintendent of education. (2941)

418. Same; state treasurer to be treasurer of fund, duties of—The treasurer of the state shall be ex officio treasurer of the Teachers' Insurance and Retirement Fund, and his general bond to the state shall cover any liabilities for his acts as treasurer of said fund. He shall receive all moneys payable to said fund and pay out the same only on warrants issued by the state auditor upon vouchers signed by the president and secretary of the board of trustees. Said treasurer shall give receipts for all moneys received by him for said fund, shall keep full and correct account of the financial transactions connected therewith, and shall make an annual report to the board of trustees at its annual meeting of the receipts and disbursements and other financial transactions connected with said fund. (2942)

419. Same; membership and conditions thereof—Any person employed as teacher, when this act takes effect, in any public school in this state or in any other educational institution included in section one of this act shall be permitted to become a member of the fund association and to receive the benefits of this act, if application be made, in writing to the board of trustees of the Teachers' Insurance and Retirement Fund on or before September 1, 1917. At the time of making application to the board of trustees as herein provided, such teachers shall notify the local school board or managing body of the institution in which he or she is employed, in writing, of his or her election to come within the provisions of this act and shall authorize said board or managing body as a part of said notice to deduct or withhold on every pay day from his or her salary the amount which he or she would pay into the fund, as specified in section two.

Any person who shall accept employment in this state as a teacher, as hereinabove defined after September 1, 1915, and who shall not have been employed in this state at the time this act takes effect, shall by virtue of the acceptance of such employment become subject to all terms, provisions, and conditions of this act, and shall become a member of the fund association. (2943)

The expression "accept employment" in section 8, of this act does not refer to the time of signing the contract but to the actual entering upon and rendering of teaching service under a contract. (Smith, June 19, 1915.)

420. Same; annuities, schedule and payment of—Any member of the Fund Association who shall have rendered twenty (20) years or more of service as a teacher in the public schools, one year of which, except any one of the last five years immediately preceding retirement, may have been a leave of absence for study, and at least fifteen years of which, including at least one of the last five years immediately preceding the term of retirement have been spent in the public schools of this state and who ceases to be employed as a teacher for any reason shall be retired at his or her own request by the board of trustees and receive an annuity in accordance with the following schedule:

For 20 years of service.....	\$350.00
For 21 years of service.....	380.00
For 22 years of service.....	410.00
For 23 years of service.....	440.00
For 24 years of service.....	470.00
For 25 years of service.....	500.00

In computing the time of service of a teacher the length of the legal school year in the district or institution where such service was rendered shall constitute a year, provided such a year shall not be less than seven months. In a calendar year credit shall be allowed for only one year of service. If a teacher teaches for only a fractional part of any year, credit shall be given for such fractional part of a year as the term of service rendered shall bear to the legal school year of such district or institution, but in no case shall the legal year be less than seven months.

Such annuities shall be paid quarterly.

Any teacher who shall become mentally or physically incapacitated after having served as teacher for fifteen (15) years, ten (10) of which shall have been in this state, shall be entitled to receive an annual benefit from the Insurance and Retirement Fund equal to as many twentieths of the full annuity for twenty (20) years as the term of total service rendered by such teacher bears to twenty (20) years.

Any person retiring under the provisions of this section may return to the work of teaching in said public schools, but during said term of teaching the annuity or benefit paid to such person shall cease. Said annuity shall again be paid to such person upon his or her further retirement. (2944, as amended by section 2, chapter 404, Laws 1925.)

Teaching in county training schools or in summer terms of the state normal schools counts toward the required teaching period referred to in sections 1, 2, 8 and 9, of this act. (Smith, June 19, 1915.)

A beneficiary receiving an annuity from the teachers' retirement fund can teach in private schools without forfeiting the right to the annuity. (Smith, September 6, 1916.)

421. Same; refundment on termination of membership, conditions of—In the event that any member of the fund association ceases to be a teacher in the state and thereby terminates membership in the fund association before drawing an annuity, such member shall, if application be made in writing to the board of trustees, be entitled to the return of the fund without interest of such sum as shall equal one-half of all moneys paid into the fund by such teacher, provided further, that, in the event such teacher subsequently returns to teaching in Minnesota and thereby becomes a member of said association, such teacher shall be required to refund to said Insurance and Retirement Fund the amount so drawn with interest thereon at the rate of 5 per cent per annum, such sum to be refunded within one year from his or her return. In case of the death of any member of this fund association before an annuity shall have been drawn from said fund, the board of trustees shall refund to his or her estate, heirs, or assigns an equal amount equal to one-half that actually paid into the fund by said member. (2945, as amended by section 3, chapter 404, Laws 1925.)

422. Same; annuities not subject to legal process—The annuity so created shall not be subject to assignment or seizure on legal process against any beneficiary. (2946)

423. Same; reduction of annuities, when and how effected—The board of trustees may ratably reduce the annuities provided in this act whenever, in the judgment of the board, the condition of the fund shall require such reduction. (2947)

424. Same; when and how annuities may be granted—Annuities may be granted by the board of trustees at any time after the passage of this act, such annuities beginning at the date on which the grant is made, but no payments shall be made before September 1, 1916. (2948)

425. Same; elections of two members of trustees by teachers—At the time and place of the meeting of the Minnesota Educational Association in 1915, those teachers who have qualified as members of the fund association by complying with the provisions of section 8, of this act shall meet at the call of the state superintendent of education for the purpose of electing from said members of the fund association two members of the board of trustees

of the Teachers' Insurance and Retirement Fund, as hereinbefore provided, and annually thereafter at the time and place of the annual meeting of the Minnesota Educational Association the board of trustees shall call a meeting of the members of the fund association for the purpose of electing one or more members, as may be required, of said board of trustees, and hearing the annual report of said board, and of transacting any other business that may properly come before said meeting. (2949)

426. Same; act not to apply to certain cities—This act shall not apply to any city of the first class in this state. (2950)

Teaching service in cities of the first class (St. Paul, Minneapolis and Duluth) may be counted as a part of the fifteen year teaching period in Minnesota referred to in section 9, of this act. (Smith, June 19, 1915.)

Note—The law of 1915 relating to State Teachers' Insurance and Retirement Fund, being chapter 199 of Laws of 1915 and sections 411 to 426 inclusive of this compilation, neither repeals nor affects the prior law relating to Teachers' Retirement Fund Associations in cities of more than ten thousand population, being chapter 343, Laws of 1909 as amended by chapter 300 of 1917. The latter law is omitted from this compilation for the reason that associations under it have been formed only in two or three of the larger cities and are not likely to be formed elsewhere hereafter. For the old law see sections 1422 and 1430, general statutes of 1913 and amendments as noted.

## PART VI.

### STATE PUBLIC LIBRARY COMMISSION.

Note: The functions, powers and duties of the former State Public Library Commission are now exercised and performed by the State Board of Education and the sections of the statutes pertaining thereto thus, by reference, become a part of the general laws on education.

427. Purchase of books, office—The commission may purchase collections of books, to be property of the state, and used as a state circulating library, from which any town, village, or community may borrow under prescribed regulation. It shall divide such books into groups, to be known as traveling libraries, catalogue and prepare them for circulation, and make rules for the conduct of its business, such as shall insure the care, preservation and safe return of all books loaned. Suitable rooms shall be provided in the capitol for its use. (5658)

428. To advise librarians, etc.—Said commission, without charge, shall give advice and instruction to the managers of any public library and to the trustees or agents of any village, town or community entitled to borrow from said collections, upon any matter pertaining to the organization, maintenance, or administration of libraries. It shall assist, by counsel and encouragement, in the formation of libraries where none exist, and may send its members to aid in organizing the same, or in improving those already established. (5659)

429. Statistics; reports, disbursements—The commission shall keep statistics of the free public libraries of the state, and a record of the work done and the books loaned by it, and report the same to each regular session of the legislature with a statement of its expenditures, the use made of the traveling libraries, and such other matters as it deems proper. Upon presentation of itemized vouchers, approved by at least three members of the commission the state auditor shall issue his warrants for all proper expenditures hereunder. (5660)



## CHAPTER XVIII

### STATE UNIVERSITY.

430. Board of regents—The government and general educational management of the state university is vested in a board of twelve regents, consisting of the governor, the state superintendent, the president of the university, ex-officio, and nine other regents appointed by the governor by and with the advice and consent of the senate. Such board shall be a body corporate under the name of the University of Minnesota. It shall have a common seal and may alter the same at pleasure. (3110)

The board of regents of the university cannot make promissory notes in the commercial sense, but may make contracts for erecting buildings and give written evidence of debt incurred therein, payable at a future day, out of the fund provided by the legislature; and judgments may be brought against the board for such debts, but such judgments bind only the fund on the faith of which the credit was given. All persons dealing with the regents must take notice of their powers. The title to all lands reserved by congress for the use and support of the university, and of all property, real and personal, acquired by the regents, with the fund placed at their disposal is in the state. (7 M. 61) (Gil. 45)

University of Minnesota—The board of regents of the state university are by section 4, article 8, of the constitution, and by section 1470, R. L. 1905, constituted a body corporate under the name of the University of Minnesota.

Board of Regents—Such board is by law exclusively vested with the management of all the educational affairs of the institution, and the courts of the state have no jurisdiction to control its discretion; but, if the board refuses to perform any of the duties imposed upon it by law, mandamus will lie to compel it to act.

431. Same; term of office—Vacancies—The term of office of the regents shall be six years, and until their successors qualify, beginning on the first Wednesday in March succeeding their appointment. Any appointment to fill a vacancy shall be for the unexpired term. (3111)

432. Same; organization—The board shall elect one of its members as president, and also a recording secretary and treasurer, neither of whom may be a regent, and in its discretion it may elect a vice president. They shall hold office during the pleasure of the board. The annual meeting shall be held on the second Tuesday in December. Such special meetings may be held as the board may direct. Before entering upon the duties of his office, the president shall file with the secretary of state a bond to the state in the sum of ten thousand dollars, and the treasurer a bond in the sum of fifty thousand dollars, both to be approved by the governor, conditioned for the faithful performance of the duties of their respective offices. (3112)

433. Same; powers and duties—The board shall enact by-laws for the educational government of the university, and shall elect proper professors, including a professor in Scandinavian languages and literature, teachers, officers and employees, and fix their salaries and terms of office, determine the moral and educational qualifications of applicants for admission, prescribe text-books and authorities and courses of study, and, in their discretion, confer such degrees and diplomas as are usual in universities. It shall have supervision and control of the agricultural experiment station, and of the experimental tree station, and, with the advice of the president and secretary of the state horticultural society, shall appoint a superintendent of such tree station, who shall report to the board as it may direct, and to such society annually in person at its winter meeting. (3113)

434. Same; to report to governor—On or before the second Tuesday in December, the board shall make an annual report to the governor, showing in detail the progress and condition of the university during the preceding university year, its wants, the nature, cost, and result of all improvements, experiments and investigations, the number and names of professors, teachers, and students in each department, the amount of money received and disbursed, and such other matters, including industrial and economic sta-

tistics, as it may deem important. A copy of such report shall be transmitted to each college or university endowed by act of congress, and to the secretary of the interior. (3116)

435. Same; power to accept bequests, etc.—The University of Minnesota may accept, in trust or otherwise, any gift, grant, bequest, or devise for educational purposes, and may hold, manage, invest, and dispose of the same, and the proceeds and income thereof, in accordance with the terms and conditions of such gift, grant, bequest, or devise, and of the acceptance thereof; and any person or persons contributing not less than fifty thousand dollars to the university may endow a professorship therein, the name and object of which shall be determined by the board. (3117)

436. Purchasing agent; powers and duties—The president of the board of regents by and with the consent and approval of the members of said board, shall appoint a purchasing agent, whose duties shall be as herein provided for and whose compensation shall be fixed by the said board of regents and paid out of the funds provided for the maintenance of said university. The said purchasing agent shall attend to the purchasing of all necessary supplies for the several departments of the state university. Previous to the termination of each quarterly period of the year the dean or other executive head of each of the several departments of the state university shall prepare estimates in detail of all the supplies required for such department for the ensuing quarterly period. Prior to the opening of such quarterly period such estimate shall be submitted by the said dean or other executive head of each of said departments to the executive committee of said board of regents, which estimate so submitted shall be carefully examined and, if necessary, revised by said executive committee. Upon the approval of such estimate by such executive committee the same shall be prepared in triplicate, and one of said estimates shall be retained by the said board of regents, and one thereof shall be delivered to and filed with the state auditor of this state. Such estimates bearing such approval shall govern and control said purchasing agent in the purchasing of supplies for the several departments of the state university. No disbursements for such purposes shall be made except on the warrant or requisition of said purchasing agent, the said purchasing agent shall give bond in such sum as said board of regents shall require for the faithful and diligent performance of his duties. (3141)

437. Same; to submit statements—Each purchasing agent shall at the close of each month prepare in triplicate statements showing all purchases made by him during said month for the several institutions, the names and addresses of persons from whom said purchases were made and the several prices paid therefor. He shall accompany the same with an affidavit that the statement is correct, that the articles therein specified were duly authorized by the proper board upon prepared statements and estimates, were received under his direction at the institution named herein, that the several prices paid therefor were reasonable, that said goods were of proper and stipulated quality and grade, and that neither he nor any person in his behalf has any pecuniary or other interest in said purchases, or has received or will receive in any way any pecuniary or other benefit therefrom.

He shall also each month prepare in triplicate and cause to be receipted by the signatures of the several parties named therein, payrolls showing the monthly salaries and compensation of all officers, teachers, and employes in said several institutions, and shall file one copy of said statement and said payroll with the president of the board of regents or president of the normal school board, as the case may be, and two copies with the state auditor. The auditor upon receiving the same shall draw his warrant upon the state treasurer for the amount called for in each expense list and payroll, and transmit the same to the treasurer, attaching thereto a copy of said expense list and payroll. Upon receipt of the same the treasurer shall send his checks to the several persons named therein for the amount of their respective claims. (3143)

438. **Limitation of expenses of board of regents**—No member of the board of regents or of the normal school board, and no person in the employ of either board shall be paid for any expense incurred, unless it shall appear that said expense was duly authorized by the executive committee or the president of the board, and an itemized, verified account of the same, accompanied by sub-vouchers, where said sub-vouchers are practicable, is furnished by the claimant, and filed with the state auditor for his written audit. Such verification shall state that said expense bill is just and correct and for money actually and necessarily paid or to be paid for the purposes therein stated. If said expense is to be incurred in visiting another state, then, before said visit is authorized or undertaken, the said executive committee or president must certify, in writing, the purpose of said visit, the necessity existing for the same, and the maximum expense to be incurred therefor, which certificate must be presented to the governor of the state for his approval. If he does not approve the same, the said visit shall not be undertaken. If the above provisions are complied with, the auditor shall pay such expense account in the same manner as monthly expenses and salaries are paid under the provisions of this act. (3144)

439. **Board of regents not to exceed appropriations**—It shall be unlawful for the board of regents of the normal school board to permit any expenditures for any purposes in excess of the amount appropriated or contemplated by law, and any member or agent of either of said boards violating this provision, shall be deemed guilty of a misdemeanor, and on conviction shall be fined not less than one hundred dollars (\$100) or more than one thousand dollars (\$1,000), or be imprisoned in the county jail for not less than six (6) months, or by both fine and imprisonment. (3145)

440. **Financial authority of board of control**—The board of control shall have and exercise full authority in all financial matters of the several institutions named in this act, so far only as relates to the erection and construction of new buildings, the purchasing of fuel, and the placing of insurance on buildings and contents. When new buildings are to be erected and constructed by authority of the state, it shall be the duty of the board of control to cause to be prepared plans and specifications for the same, but in so doing it shall consult with the local board in respect to said plans and specifications, and shall adopt and carry out so far as it deems practical, their request and desires in the matter. Provided that said state board of control may in its discretion authorize the controlling board of any institution, for which any building is authorized to be constructed, to construct such building in case the cost thereof does not exceed the sum of five thousand (\$5,000.00) dollars. If such authorization be granted said state board of control shall file its written consent thereto with the state auditor, and thereupon such building may be constructed under the direction of such controlling board.

The board shall not let any contract for the erection and construction of new buildings that may hereafter be constructed without first publicly advertising for at least two weeks in some legal newspaper published in the county, where the work is to be performed, for separate sealed bids for general construction, plumbing, heating, ventilating work required in the construction of such buildings, and for separate sealed bids covering the entire work required in such construction in which advertisement, the time and place shall be fixed for the opening of such bids, and that all such bids shall be opened publicly, and a record of the same, giving the name of the bidder, the classification of the work or material bid upon, and the amount of the bid, shall be made and filed with the secretary of said board as a public record, and that no such contract shall be made and entered into except with competent and responsible contractors and builders who can furnish a good and sufficient bond as required by law. (3146)

441. **Controller for university; bond required**—The board of regents of the state university is hereby authorized to appoint some suitable person



to the office of "comptroller" for the university, which office is hereby created. Such person shall hold office at the pleasure of the board of regents. Before entering upon the performance of his duties he shall give bond to the state in the sum of twenty thousand (\$20,000) dollars, conditioned for the faithful performance of his official duties. If a surety bond is given the cost thereof may be paid by the university from its appropriation for maintenance. The comptroller shall receive such compensation as shall be fixed by the board of regents, to be paid from the appropriations for maintenance of the university. (3147)

442. Same; to have charge of business affairs of university—The comptroller shall have charge, under the general direction and supervision of the board of regents, of all the business affairs of the university, including accounting, purchasing of material and supplies, the business relations of the university with the board of control, the administration of the financial budget of the university and the care of the buildings and grounds of the university. (3148)

443. Same; to employ a chief accountant and other assistants—The comptroller, subject to the approval of the board of regents, may employ a chief accountant, purchasing agent and superintendent of buildings and grounds and such other employes as may be necessary to the proper administration of the duties hereinbefore devolving upon him. Such employes shall receive such compensation, to be paid from the appropriations for the maintenance of the university, as shall be fixed by the board of regents. (3149)

444. Same; to formulate budget for ensuing fiscal year—It shall be the duty of the comptroller on or before the first day of August in each year to formulate under the direction of the board of regents, a "budget" for the ensuing fiscal year. Such budget shall contain a detail estimate of the funds which will be available for expenditure by the university for the next ensuing year and apportionment of such funds for expenditure to the various colleges, departments and divisions of the university. A copy of such budget, approved by the board of regents, shall be filed with the comptroller and a copy thereof to the state auditor. The comptroller shall not make or authorize any disbursement except as provided for in said budget, without the written consent and direction of the board of regents. (3150)

445. Payment of salaries, etc.—The payment of salaries and supplies shall be in conformity with the budget as approved by the board of regents and the method of procedure shall be in conformity with the system approved by the state auditor, state treasurer, attorney general and public examiner. The dean or other acting head of the college or department shall certify the list of departmental instructors and employes as provided for in the budget. It shall not be necessary that such list be signed or receipted by the persons named therein and to whom payments are to be made. (3151)

446. Duties of purchasing agent—The purchasing agent hereinbefore provided for, shall have charge, under the general direction and supervision of the comptroller, of the purchase of all materials and supplies for the university and the several colleges and departments thereof, the purchase of which is not by law entrusted to any other board or officer. (3152)

447. Not to modify chapter 174, Laws 1917—Nothing in this act shall in any way repeal, modify or affect chapter 174, General Laws of Minnesota for 1917, being a bill for an act to provide for the purchasing by the state board of control of stationery, furniture, supplies and equipment for all the governmental departments of the state, not now under the financial and exclusive management of said board, and repealing all acts and parts of acts inconsistent herewith, approved April 10, 1917. (3154)

448. **University, colleges and departments**—The University shall comprise: (1) A college of science, literature and arts; (2) a college of agriculture, including military tactics; (3) a college of mechanic arts; (4) a college or department of law; (5) a college or department of medicine; (6) a college or department of dentistry. (3120)

449. **Sectarian instruction prohibited**—In the selection of professors, instructors, officers and assistants of the university, in the studies and exercises, and in the management and government thereof, no partiality or preference shall be shown on account of political or religious belief or opinion, nor shall anything sectarian be taught therein. (3121)

450. **Department of pedagogy**—That it shall be the duty of the board of regents to organize and establish in the University of Minnesota as soon as practicable a teachers' college, or department of pedagogy, for the purpose of affording proper professional training for those persons who intend to become public and high school instructors, principals and superintendents of schools. (3136)

451. **Agricultural extension and home education**—The board of regents of the University of Minnesota is hereby authorized and directed to establish a division of agricultural extension and home education in the department of agriculture of the University of Minnesota. (3124)

452. **Same; purposes of work**—The purpose and work of said division shall be to devise and prescribe comprehensive elementary courses in the various phases of husbandry; to teach such courses to all persons in the state desiring instruction in them, or any of them, in accordance with sections 4 and 5 of this act, by means of correspondence with them at their homes; by providing local lectures, demonstrations, instructions and any information calculated to elevate agriculture to a higher economic and social plane and make country life more attractive and to publish frequent home education bulletins which shall give in plain and practical form the results of the experiments and investigations of the various divisions of the state experiment station and sub-stations of the University of Minnesota and such other information as may be useful in any farm home. (3125)

453. **Same; officers of division**—That the officers of said division shall be a chief, who shall have general oversight and immediate charge of the work of said division; associates consisting of the chiefs of the divisions of investigation and instruction in the department of agriculture of the University of Minnesota, who shall serve in an advisory capacity; an editor who shall edit and prepare for publication such material as the chief of the division may direct, and such other faculty, assistants and clerks as may be needed for the greatest usefulness of said division. (3126)

454. **Same; free instruction**—That all persons who reside in the state of Minnesota shall have the right to take free of charge any courses of instruction offered in the division of agricultural extension and home education as provided for in section 2 of this act, and shall be subject to such rules and regulations as said division of agricultural extension and home education shall establish under the authority and direction of the board of regents of the University of Minnesota. (3127)

455. **Soldiers, sailors and others entitled to \$200 free tuition in university and normal schools and certain colleges**—Any male person who, being at the time a citizen and resident of the state of Minnesota, served as an officer or enlisted man in the army, navy or marine corps of the United States during any war in which the United States has been involved including the members of the national guard or who, upon the call of the president, performed military service outside of the borders of this state in any troubles with Mexico, and any man or woman who, being at the time a citizen and resident of the State of Minnesota, performed active overseas war service as a regularly enlisted full-time worker of the Red

Cross, engaged in nursing the sick or assisting in the care of soldiers in any government hospital, field or camp, which service has been officially recognized by the national government, shall, upon complying with all other requirements for admission, be entitled to pursue any course or courses in the University of Minnesota or any state normal school, upon tuition provided by the state to an amount not to exceed \$200 for each person, provided, that any such student may, at his option, enter any college or school in this state which maintained a student's army training corps unit in co-operation with the United States government, or any other college or school approved by the state department of education, and his tuition therein to an extent not exceeding \$200 for each person, shall be paid by the state in accordance with the provisions of this act. (Section 1, chapter 338, Laws 1919.)

456. Same; honorable discharge sufficient to prove beneficiary—The question of whether or not an applicant has been so in the service of the government as to entitle him or her to the benefits of this act and the tuition herein provided shall be determined by an officer designated by the respective institutions upon the production of an honorable or ordinary discharge from the military, naval or marine service of the United States or from the Red Cross, or such other evidence as may be required. (Section 2, chapter 338, Laws 1919.)

457. Adjutant general to be furnished with certain lists—Duty of administrative officers—To extend to July 1, 1924—It is hereby made the duty of the administrative officers of the University of Minnesota and the state normal schools to furnish to the adjutant general of the State of Minnesota lists in triplicate of student applicants which lists shall show the name of the applicant, the unit in which the service specified in section 1 hereof was performed, the course selected and the regular tuition charge for such course. The adjutant general shall check the list with records now on file in his office or to be procured from reliable sources and if found correct shall return two copies to the respective state institutions as authority to perform the service under this act. At the end of each semester or term the administrative officers of the state institutions coming under this act shall return one list duly certified showing the period each student has attended and the proportion and amount of the tuition earned. The adjutant general shall check the lists and if found correct shall certify the same to the state auditor and the state auditor upon receipt thereof shall draw his warrants upon the state treasurer from the appropriation provided therefor in favor of the state institutions entitled to the tuition.

And it is hereby made the duty of the administrative officers of such colleges or institutions other than state institutions, as accept the privileges for students under this act, to furnish to the adjutant general of the State of Minnesota, lists in triplicate of student applicants, which lists shall show the name of the applicant, the unit in which the service specified in section 1 hereof was performed, the course selected and the regular tuition charge for the course. The adjutant general shall check the list with records now on file in his office or to be procured from reliable sources and if found correct shall return two copies to the respective institutions other than state institutions, as authority to perform the service under this act. At the end of each semester or term the administrative officers of the institutions other than state institutions coming under this act shall return one list duly certified showing the period each student has attended and the proportion and amount of the tuition earned. The adjutant general shall check the lists and if found correct shall certify the same to the state auditor and the state auditor upon receipt thereof shall draw his warrants upon the state treasurer from the appropriation provided therefor in favor of the students entitled to the tuition and the state treasurer shall forward the voucher warrants to said respective institutions other than state institutions.



It is further provided that any student coming under the provisions of this act, who has paid tuition, since his induction into the military, naval or marine service of the United States or in the Red Cross, to any institution as provided for in section 1 hereof, shall be entitled to a refundment of the tuition so paid in amount not to exceed \$200, upon presentation to the proper administrative officers of the above named institutions of the same proof of service as required in section 2, and shall be included in the certified lists to the adjutant general of the State of Minnesota as provided for in section 3, and payment shall be made direct to the students entitled to the refundment, provided that no refund shall be made where tuition has heretofore been paid by the government of the United States for a student coming under the provisions of this act, and provided further, that the total amount of refundment and tuition paid shall not, in the aggregate, exceed the sum of \$200 for each person.

Provided that the benefits from the provisions of this act shall not extend beyond July 1, 1924. (Section 3, chapter 338, Laws 1919.)

458. Same; bulletins to be issued—The home education bulletins authorized by this act shall be sent free to all persons resident within the state who shall request said bulletins to be sent to them. (3128)

459. Agricultural extension—Co-ordination of work—The purpose of this act is to co-ordinate the work of the federal government, the state, the several counties of the state and the division of agricultural extension of the University of Minnesota in the maintenance of county co-operative extension work in agriculture and home economics. (Section 1, chapter 427, Laws 1919.)

460. Same; county board authorized to incur expenses—The county commissioners of the several counties of this state are hereby authorized and empowered to incur expenses and to expend money for county co-operative extension work in agriculture and home economics as hereinafter provided. (Section 2, chapter 427, Laws 1919.)

461. Same; county farm bureau association—The formation of one corporation in each county in this state, to be known as the county farm bureau association, for the purpose of co-operating with the department of agriculture of the University of Minnesota in the development of a program of work in agriculture and home economics, is hereby authorized. The incorporation of said association shall be accomplished by the filing of a certificate of incorporation in the usual form for record with the register of deeds of the proper county. (Section 3, chapter 427, Laws 1919.)

462. Same; money to be expended under direction of dean of agriculture—All moneys hereafter appropriated by the state for the purpose of aiding in the maintenance and expenses of county co-operative extension work in agriculture and home economics shall be disbursed in sums not exceeding \$1,000 annually to any one county. The moneys so appropriated are to be expended under the direction of the dean of the department of agriculture of the University of Minnesota who is hereby empowered to carry out the provisions of this act. To secure this state aid the county shall have first complied with the following requirements:

(a) Raised locally each year at least \$1,000 for the support of county co-operative extension work in agriculture and home economics.

(b) Organized a county farm bureau association having at least one hundred members in good standing and having among its objects the promotion of the purposes of this act and having on deposit in a local bank at least \$200 available for use by such association in maintaining its organization, satisfactory proof of which shall be furnished annually to the dean of the department of agriculture of the University of Minnesota.

(c) Agreed to the employment of such agent or agents as are necessary to conduct the county co-operative extension work in agriculture and

home economics and as will meet the requirements of the United States Department of Agriculture, the employment of such agents to be approved by the dean of the department of agriculture of the University of Minnesota. No county agent shall be employed by any county unless recommended by the duly constituted officers, or their accredited representatives, of the county farm bureau association of such county. (Section 4, chapter 427, Laws 1919.)

463. Same; appropriation of money—After the requirements above specified relative to the organization of a county farm bureau association, shall have been met in any county, said county may by action of its board of county commissioners appropriate annually at least \$1,000, and may appropriate annually not to exceed \$3,000, for the maintenance, support and expenses of county co-operative extension work in agriculture and home economics, and the several counties in this state are hereby authorized to set apart and appropriate said sum of moneys subject to the order of the dean of the department of agriculture of the University of Minnesota and to be paid out only on his order for salaries of said agents and the employes of said agents within the appropriation available and for other expenses incident to the work of such agents. No order for the application of said funds for the purposes named shall be issued by the said dean until said expenditures shall have received the approval of the duly constituted officers, or their accredited representatives, of the county farm bureau association of the proper county. (Section 5, chapter 427, Laws 1919.)

464. School of agriculture at Waseca—There shall be established at or near the city of Waseca, in the county of Waseca, under the direction and educational supervision of the board of regents of the University of Minnesota, a school of agriculture, which shall be a department of the University of Minnesota, under such name and designation as the board of regents may determine, and wherein shall be taught such studies and branches of learning as are related to agriculture and domestic economy. (Chapter 453, Laws 1919.)

465. President of university; powers and duties—The president of the university shall be president of the general faculty and of the faculties of the several colleges or departments and the executive head of the university in all its departments. Subject to the board of regents, he shall give general direction to the practical affairs and scientific investigations of the university, and, in the recess of the board, may remove any employee or subordinate officer, not a member of the faculty, and supply for the time any vacancy among such employes and officers. He shall be ex-officio corresponding secretary of the board of regents and may be charged with the duties of one of the professorships. (3122)

466. Same; reports of—On or before the second Tuesday in December of each year, he shall make a report to the state superintendent, showing in detail the progress and condition of the university during the previous university year, the number of professors and students in each department, and such other matters relating to the educational work of the institution as he shall deem useful, or as the state superintendent may require. He shall also at the same time report to the board of regents the progress and condition of the university during the same time, the nature and results of all important experiments and investigations, and such other matters, including industrial and economic facts and statistics, as he may deem useful, or as such board may require. (3123)

467. Maintenance of university—There is hereby annually appropriated for the general maintenance of the university:

1. The interest and income of the permanent university fund, arising from the sale of lands granted to the state by act of congress entitled "An act donating lands to the several states and territories which may provide

colleges for the benefit of agriculture and the mechanic arts," approved July 2, 1862, or from any other source.

2. The proceeds of twenty-three one-hundredths mills on the dollar of the state school tax.

The lands granted by the general government to the state to aid in the development of brines, and known as the state salt lands, and those granted by an act of congress entitled "An act granting lands to the State of Minnesota in lieu of certain lands heretofore granted to said state," approved March 3, 1879, and the funds arising from their sale, are hereby appropriated for the completion of the geological and natural history survey. (3024, G. S. 1913.)

## CHAPTER XIV.

### STATE TEACHERS COLLEGES

468. **State teachers colleges**—The six educational institutions in this state heretofore designated as state normal schools, shall hereafter be designated as state teachers colleges as follows: the "Winona State Teachers College," the "Mankato State Teachers College," the "St. Cloud State Teachers College," the "Duluth State Teachers College," the "Moorhead State Teachers College," the "Bemidji State Teachers College," respectively. (3064)

469. **State teachers college board**—The board heretofore in charge of the state normal schools and referred to in the statutes as the normal school board, and sometimes as the state normal school board, shall hereafter be designated as the state teachers college board, with the same powers and duties as heretofore, with the additions except as hereinafter provided. (3065)

470. **Degrees**—The state teachers college board shall have authority to award appropriate degrees to persons who complete the prescribed four-year curriculum of studies in the state teachers college. (3066)

471. **Normal school board**—The educational management of the normal school is vested in a board of eight directors, who, with the state superintendent, shall constitute the normal school board. Such directors shall be appointed by the governor, subject to confirmation by the senate, for a term of four years. The governor shall in like manner fill for the unexpired term all vacancies in the board. There shall one director resident in each county in which a normal school is located, and no two shall be residents of the same county. (3070)

The state normal school board may establish, by rule or regulation, the ages between which children may be received into the model department. (Douglas August 17, 1900.)

472. **Same; powers and duties**—The board shall have the educational management, supervision and control of the normal schools, and of all property appertaining thereto. It shall appoint all presidents, teachers and other necessary employees therein, and fix their salaries. It shall prescribe courses of study, conditions of admission, prepare and confer diplomas, report graduates of the normal department, and adopt suitable rules and regulations for the schools. It shall, as a whole or by committee, visit and thoroughly inspect the grounds, buildings, modes of instruction, discipline and management of each school, at least once in each year. It shall report to the governor on or before December 1st in every even numbered year, the condition, wants and prospects of each school, with recommendations for its improvement. (3072)



473. Same; annual meeting—The annual meeting of the board shall be held on the first Tuesday in June. At such meeting it shall choose by ballot a president, whose term of office shall be for two years, and until his successor qualifies. In case of vacancy, the governor shall appoint one of the directors president until the next annual meeting, and until his successor qualifies. The state superintendent shall be secretary of the board. (3071)

474. Same; compensation of—The directors shall be reimbursed for their actual expenses while engaged in duty for the normal schools out of the current funds belonging to such schools. (3078)

475. Purchasing agent for; powers and duties—Upon the assumption by said state normal school board of the jurisdiction, management and control of the normal schools of this state, said board shall elect from its own members a purchasing agent, whose duties shall be as hereinafter stated, and whose compensation shall be fixed by said board and paid out of funds provided for the maintenance of said normal schools, a pro rata sum being paid each school. He shall superintend the making of all purchases for said schools. Prior to the termination of each quarterly period the executive head of each school shall prepare and submit to him a detailed statement of the needs of said institution, including an estimate of the necessary supplies and expenditures for the quarterly period next succeeding. Said statement and estimate shall be submitted by him to said normal school board for revision and correction. When approved by said board it shall be prepared in triplicate by such purchasing agent, and one copy thereof shall be retained by said board for the use of such agent, one shall be delivered to the executive head of each normal school and one shall be filed with the state auditor. Such estimates shall govern and control the purchasing of supplies for the respective schools, and the money necessary to be disbursed therefor shall be paid out upon the warrant of said agent as hereinafter stated. Said agent shall at the commencement of each quarterly period set apart for the use of each school as a contingent fund, a sum not exceeding one hundred dollars (\$100).

In addition thereto the supervision of the purchasing of all necessary supplies for said school, it shall be the duty of such purchasing agent to visit each of said schools at least once during each quarterly period, at which time the estimates for the succeeding quarter as herein provided, and a statement of the needs of said institution shall be submitted to him by the executive head thereof.

He shall from time to time make reports to said normal school board of the business affairs of said schools, with such recommendations as he may deem proper. All salaries for resident directors heretofore paid or provided for are hereby discontinued. (3142)

476. Summer sessions—That there shall be held at each of the state normal schools in this state a summer session of twelve (12) weeks each, under the direction of the state normal board. These summer sessions shall be a part of and in all respects be the same as the session now provided for by law. The provisions for attendance at these summer sessions shall be the same as those now in force and the arrangements of the terms in the school year shall be such as to most fully serve the welfare of rural schools. Provided, that said normal board may, in its discretion and when the interests of the state may be best subserved thereby, direct that a shorter session than twelve weeks be held at any of said schools. (3079)

477. Tuition—There shall be no charge for tuition or incidental expenses to students in normal schools who file with the president of the school board a declaration of intention to teach in the public schools of the state for not less than two years after leaving such school. The board shall fix rates of tuition for other students, and for pupils in the model schools. (3069)

478. Model schools—The normal school board may organize model schools in connection with each normal school, for illustrating methods of teaching and school government only. (3068)

479. President of, to report to superintendent of education—The president of each normal school shall make an annual written report to the state superintendent on or before September 1st, covering the term year of his school, and setting forth its general statistics, enrollment in each department and in each class of the normal department, average attendance, the number graduating within the year, the number of teachers, the departments of each, and the general condition of its buildings, library, and apparatus, the number and names of all graduates then engaged in teaching, as far as known to him, and the district or county in which each is teaching, and such other matters and suggestions as he may deem of interest to the public, or conducive to the good of the schools. (3077)

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